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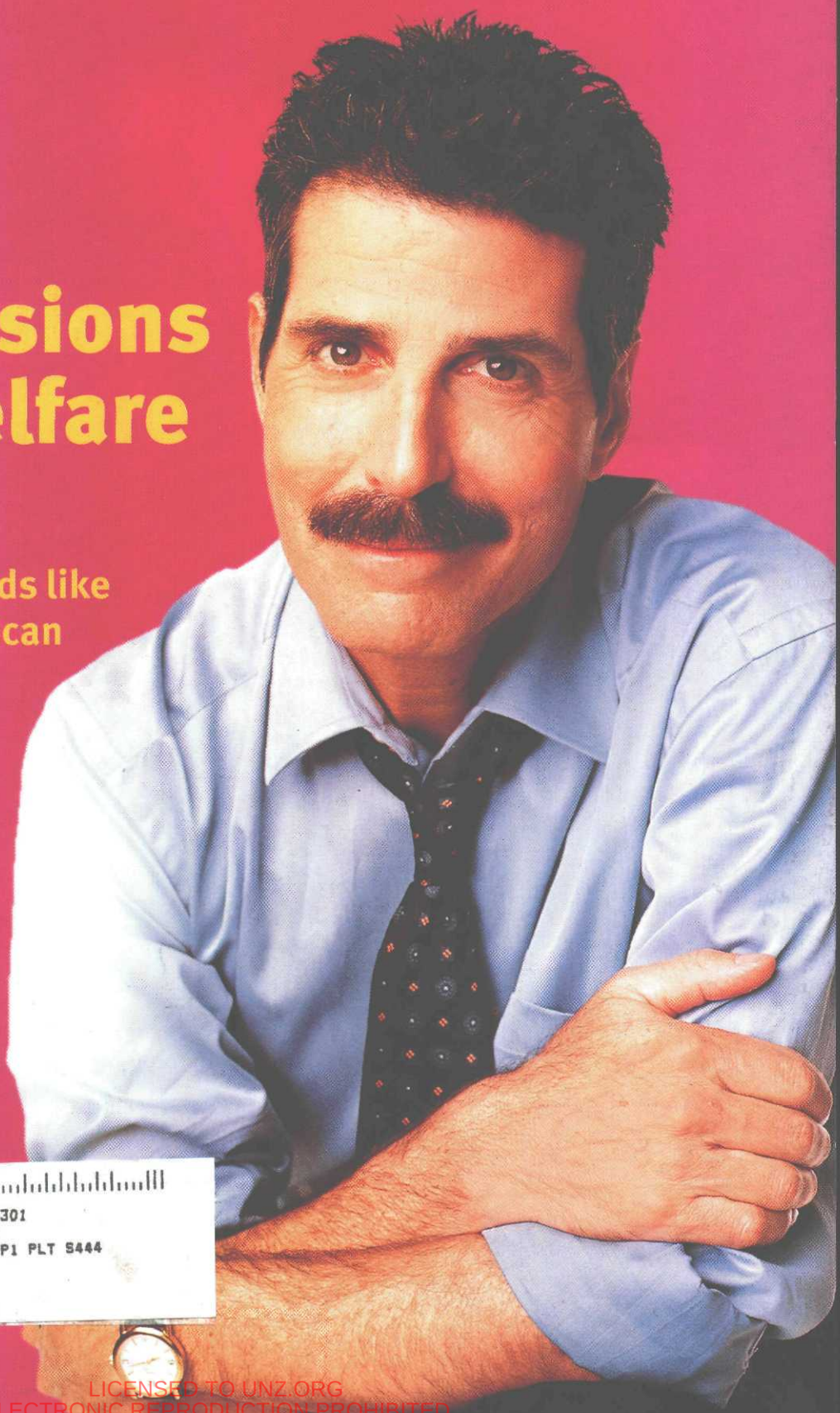
Life in Occupied Iraq
Swingers of the World, Unite
The Politics of Teen Spirit

Confessions of a Welfare Queen

How rich bastards like me rip off American taxpayers



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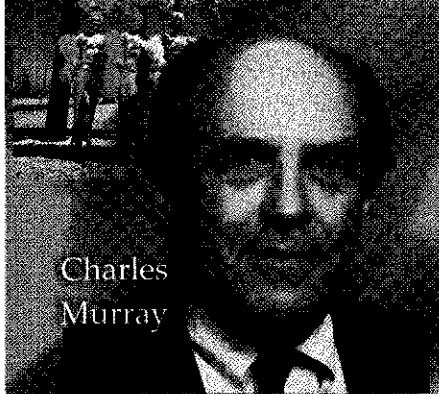
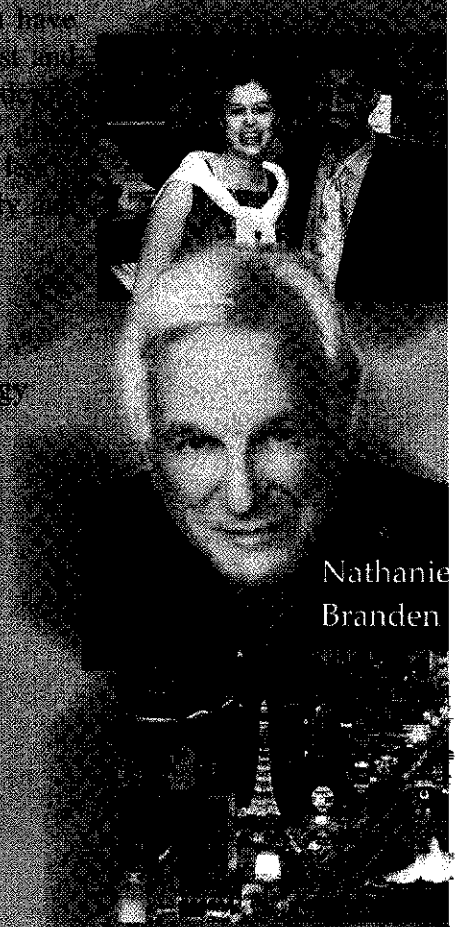


Charles Murray



Nathaniel Branden

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reason
Free Minds and Free Markets

March 2004
Volume 35, No. 10

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Cover photo: John Stossel, courtesy HarperCollins

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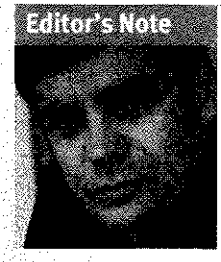

Book of Revelations

FEW JOURNALISTS CHALLENGE the conventional wisdom with more power than John Stossel, the co-anchor of ABC's 20/20, the auteur behind widely watched specials such as *Are We Scaring Ourselves to Death?*, and the author of this month's cover story, "Confessions of a Welfare Queen: How Rich Bastards Like Me Rip Off Taxpayers for Millions of Dollars" (page 22). Whether debunking claims that TV's Power Rangers were turning America's kids into hyperactive droogs or revealing how the Americans with Disabilities Act has made it tougher for the handicapped to find jobs, Stossel always forces his viewers to think long and hard about what they assume is the truth.

Stossel's article—drawn from his engaging new memoir, *Give Me a Break: How I Exposed Hucksters, Cheats, and Scam Artists and Became the Scourge of the Liberal Media* (HarperCollins)—forces us to redefine what it means to be on the dole. Ronald Reagan famously complained about "welfare queens," writes Stossel, "but he never told us that the biggest welfare queens are the already wealthy." Thus begins a tale of how such struggling down-and-outers as former Archer Daniels Midland CEO Dwayne Andreas, financier David Rockefeller, and a well-heeled broadcaster named John Stossel have benefited handsomely from government largess. In Stossel's case, you and I helped him rebuild an expensive beach house via heavily subsidized federal flood insurance.

It's an enraging piece. To the extent that it makes you rethink the definition of *welfare queen*—not to mention *rich bastard*—it's Stossel at his best. **reason**, too. In *Give Me a Break*, Stossel identifies **reason** as the magazine that radically changed his thinking about the benefits of laissez faire in economics and personal lifestyles. After growing disillusioned with liberal and conservative media outlets, he turned to **reason**. "It was a revelation," he writes. "Here were writers who analyzed the benefits of free markets that I witnessed as a reporter. They called themselves libertarians, and their slogan was 'Free Minds and Free Markets.' I wasn't exactly sure what that meant, but what they wrote sure made sense."

This issue is filled with other revelatory stories. In "Faith, Shame, and Insurgency" (page 30) and "Babylonian Hostility" (page 34), Steven Vincent and Nir Rosen file reports from a Baghdad different from the one you've encountered on the evening news. Whether you were for or against the war, these pieces will challenge what you think you know about Iraq.

In "Waiting for Antar" (page 16), Charles Paul Freund turns to Arab history to explain Saddam Hussein's bizarre refusal to use the toilet after being captured. In "Blood Money" (page 56), Damon W. Root shows that America's most sacralized battlefield, Gettysburg, has always been its most commercialized; he also explains why that's a good thing. And in "Swingers of the World, Unite!" (page 52), Peter Bagge gives us the skinny on a recent "alternative lifestyles" conference. Whether what he finds there is a revelation is something readers will have to decide for themselves.

Nick Gillespie

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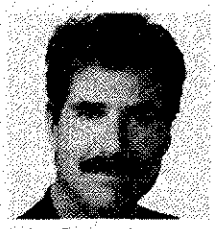
John Stossel

Steven Vincent

Richard Epstein

As co-anchor of ABC's 20/20, JOHN STOSSEL has exposed millions to libertarian ideas through his weekly "Give Me a Break" segments. His provocative hour-long specials have taken on such topics as the drug war, junk science, and the explosive growth of government. But when he began reading about cheap government flood insurance, which protected his pricey beach house, he says "it occurred to me that I was a freeloader too—I had just viewed it as another of life's deals." His article in this issue, "Confessions of a Welfare Queen" (page 22), is excerpted from his new book, *Give Me a Break* (HarperCollins).

STEVEN VINCENT believes in plunging head-first into history. Shaped by the Vietnam War as a Berkeley student in the '70s, he spent his honeymoon in Vietnam, Laos, and Cambodia, where he witnessed the Khmer Rouge's attempt to disrupt the 1993 elections. He traveled to Hong Kong for the city's handover to China. And as he watched the Twin Towers collapse from the roof of his Manhattan apartment, he knew he would go to Iraq, which he suspected would be an early front in the War on Terror. He recounts that trip in "Faith, Shame, and Insurgency" (page 30). Vincent is a freelance writer and art critic whose work has appeared in *The Wall Street Journal*, *The New York Times*, *Art in America*, and *Commentary*.

Since his student days at Oxford, RICHARD EPSTEIN has been searching for the Holy Grail of legal scholars and political philosophers, "a theory both simple and flexible enough to explain everything from two-person interactions to large-scale social institutions like taxation." To that end, he's made a "conscious effort to teach everything," from torts and civil procedure to corporate taxation and Roman law. He sketches some of his conclusions in "Coercion vs. Consent" (page 40), adapted from a talk delivered at **reason**'s 35th anniversary celebration in November. Epstein, who teaches law at the University of Chicago, is the author of many books, including *Principles for a Free Society*, *Simple Rules for a Complex World*, *Takings*, and his most recent, *Skepticism and Freedom* (University of Chicago).

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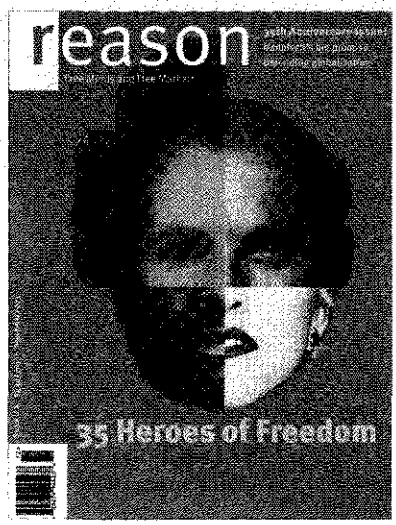

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Divorcées and Social Engineers

Cathy Young bends over backward to be fair in "Divorcées and Social Engineers" (December), and as usual she mostly succeeds. But we may be missing an opportunity to probe deeper into a perversion of government power without precedent in our history.

Young characterizes some of my views as "extreme." But my argument that government's ever-expanding family machinery has developed a vested interest in removing children from their fathers was recently documented in *Political Science and Politics*, a peer-reviewed journal of the American Political Science Association not known for airing extremist opinions. The argument is in fact a commonplace of political science: Bureaucracies often perpetuate the problem they are created to address.

My charges are corroborated by a feminist insider. In the October issue of the same journal, St. Olaf College political science professor Jo Michelle Beld confirms that the livelihoods of child support officials depend on broken homes, that these same enforcement officials set the child support levels they collect, and that "high child support orders, in combination with other child support enforcement policies, have a negative effect on contact between non-custodial parents and their children."

Perhaps it is not my rhetoric but what the government is doing to its citizens that is extreme. We are talking here about the forced removal of millions of children from parents who have done nothing wrong; mass incarcerations of those parents without trial; forced confessions; government seizure of the private papers, property, and homes of citizens accused of nothing; children used as government informers against their parents; doctored court records; involuntary litigants shaken down on pain of incarceration for the fees of lawyers and psychotherapists they have not hired; and much more.

Oddly, nobody has written more eloquently on many of these abuses than Cathy Young. But now she asks blithely, "Is there any way to avoid that?" and expresses a truly astonishing pathos for "people forced to choose between losing their children and remaining in an emotionally intolerable marriage."

No one today is "forced" to contract a marriage agreement, which is designed to provide an emotionally tolerable environment for children. To avoid this intolerable choice for parents who lack grounds to break their contract, parents who remain faithful currently must lose their children without being given any "choice" in the matter. They may then be expropriated for not only everything they have but most of what they will ever earn, coerced into signing a confession, criminalized in ways they are powerless to avoid, and jailed indefinitely without trial.

By the way, I have never advocated that a parent should have no access to his or her children. What I advocate is bringing questions of justice, rather than therapy or social engineering, back into courtrooms. This certainly includes the joint custody (properly understood) that Young proposes. But any solution will effectively minimize divorce damage only by identifying the interests inflicting that damage and vigilantly monitoring them.

reason and Cathy Young deserve credit for opening a dialogue, but they would be doing a greater service through a more extensive investigation into this hijacking of the justice system.

Stephen Baskerville
Howard University
Washington, DC

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Drug Rush

Jacob Sullum rightly suggests that the strongest argument in favor of letting Rush Limbaugh keep his freedom after he admitted abusing prescription painkillers is that, so long as he's not hurting anybody else, it's nobody's business what he puts in his body ("Drug Rush," December). Drug abuse is a personal medical problem just like alcoholism, and we should treat it the same way.

Regardless of the total social harm attributed to alcohol (which is considerably higher than that attributed to all illegal drugs combined), attempting to jail anyone who consumes or possesses alcohol in order to redress that harm would be inconceivable. The government's interest in protecting the health and safety of its citizens is better served by simply prohibiting public intoxication, driving while impaired, or selling alcohol to minors. Likewise, focusing on irresponsible drug users, rather than all of them, would save our nation billions of dollars every year—money that could be better spent on realistic drug education and treatment on demand.

Julie Ruiz-Sierra
Davis, CA

As a police officer, I would rather go after public safety threats, like drunk drivers, than Rush Limbaugh. As a taxpayer, I don't want to pay for him to go to prison; I want my tax dollars to help the schools. As a humanitarian, I want Rush to get medical help for his addiction, using doctors, not prison guards.

Howard J. Wooldridge
Fort Worth, TX

The Smaller the Better

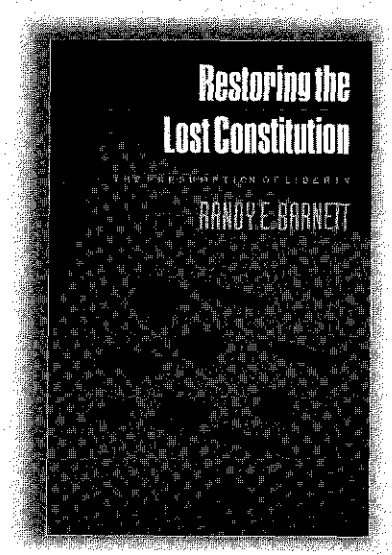
Ron Bailey's look at nanotechnology ("The Smaller the Better," December) takes both its most ardent cheerleaders and its most ardent opponents a bit too seriously. As early as 1951, the mathematician John von Neumann laid the groundwork for nanotechnology by showing that a machine can always be designed to build any describable device, including itself. In *Profiles of the Future* (1963), Arthur C. Clarke wrote at length of the "replicator," which would solve all problems of material demand by producing any desired product on request—including beefsteaks and cheese omelets. Eric Drexler's "assemblers," described in his book *Engines of Creation*, are similar.

In recent years, the term *nanotechnology* has become merely a fashionable buzzword for work with thin films, microscopic fibers, and fine powders. Examples include the self-cleaning windows and spill-resistant pants that Bailey mentions. Their manufacturing processes in no way resemble those imagined by Clarke and Drexler, which call for precise atom-by-atom assembly of products.

No one knows how to do this. Even if it becomes feasible, it may well take too long to be of practical interest. For instance, coral polyps amount to natural assemblers as they build their reefs. Engineers might use them to build a dam. Still, even under the best conditions, coral reefs grow at only three inches per year. At that rate, it would take 3,000 years to build the Hoover Dam.

On the other hand, the Precautionary Principle has little if any legal standing in the U.S. Regulators are not free to impose sweeping bans or moratoria on new technologies merely because they stir poorly defined fears. Instead, the laws governing federal agencies such as the Environmental Protection Agency and the Food and Drug Administration call for science-based regulation, with a focus on specific, well-defined measures of hazard and risk. Thus, if von Neumann

Has the Supreme Court been cutting holes in the Constitution?



The U.S. Constitution found in textbooks and under glass in Washington is not the one enforced today by the Supreme Court. In *Restoring the Lost Constitution*, Randy Barnett explains how, since the nation's founding, but especially since the 1930s, the courts have been cutting holes in the original Constitution and its amendments to eliminate the parts that protect liberty from the power of government. In a presentation that is clearly argued and remarkably accessible, Barnett proposes adopting a Presumption of Liberty that would put into effect the entire Constitution as originally enacted and amended. A Cato Institute book for Princeton University Press.

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machines indeed become feasible, they will not be outlawed; they will merely be regulated.

T. A. Heppenheimer
Fountain Valley, CA

35 Heroes of Freedom

I'm baffled by the list of great freedom fighters in the December issue ("35 Heroes of Freedom"). If **reason** wished to include entertainment celebrities, why Madonna, Willie Nelson, and Dennis Rodman? Why not Charlton Heston, who was active in the civil rights movement and later headed the National Rifle Association? Why not Jackie Robinson or George Carlin, whose "up yours"-es to their respective establishments were far more political and influential than any of the above three?

If the point is the pushing of the cultural envelope, why not honor HBO or the creators of *South Park*, both of whom have pushed the cultural and political envelope a lot more effectively than Rodman or Nelson? I'm not opposed to porn, pot, and body adornment, but they're hardly heroic acts.

Tim Lee
Alexandria, VA

In some cases, it seems **reason** picked the more prominent person for its "35 Heroes of Freedom" list, rather than the one who really fit the criteria best.

Larry Flynt got the glory, but it was *Screw* publisher Al Goldstein who supplied the guts. Goldstein even dabbled in Libertarian politics in New York and Miami. Seems the story of Goldstein's life has been overshadowed by Flynt, as when a documentary movie about him, *Screwed*, came out the same time as The *People vs. Larry Flynt*.

Similarly, I think Dana Rohrabacher has been a more effective force for freedom in Congress by not sticking out as the "one" in "all-but-one" votes like Ron Paul does. Sure, Paul has a greater following outside Congress and his district, but by going along with the GOP leadership when it was futile to do otherwise, Rohrabacher had more leverage where it counted.

Why no mention of Howard Stern? Surely he's done more to bring pro-freedom ideas before the masses than some of the other figures of popular culture and entertainment that made your list. Stern and Goldstein don't have the liberal cachet of Flynt or Madonna, I guess.

Robert Goodman
Bronx, NY

I just completed reading your article on the 35 heroes of freedom since **reason**'s founding. While I enjoyed the article, I noticed two glaring omissions from your list: Robert Nozick and Murray Rothbard. I understand there wasn't room for everyone on the list, but these two men are giants of modern libertarianism.

Nozick accomplished the previously unthinkable when he made libertarianism philosophically acceptable in the academy by publishing *Anarchy, State, and Utopia*. As for Rothbard, there is probably no one except for Ayn Rand who brought so many people into the libertarian movement, and there is probably no one who has done more for the building of libertarian institutions. Personally, I have found no greater tool in my outreach to friends and neighbors than Rothbard's *For a New Liberty*.

John Payne
St. Louis, MO

I nominate Greg Ginn of the seminal punk rock group Black Flag and, more important, founder of SST Records, one of the first and most successful of the new breed of independent record labels that transformed the American musical landscape in the 1980s. By bringing a new generation of American rock 'n' roll to a young audience bored with outdated baby boomer butt-rock bands in the '80s, SST was critical in the development of the indie rock DIY movement and brought needed authenticity back to the notion of "rock stardom." Lots of young punks cursed the bane of corporate rock. Ginn actually did something about it.

Rob Salkowitz
Seattle, WA

Kudos for including Curt Flood on the list. But come on guys, including Goldwater, Thatcher, and Havel without the guy who did the most to bring down communism—a fellow named Reagan—is like having Peter, James, and John without Jesus.

Paul Trampe
Fredericksburg, VA

Poor Man's Hero

It is fine for Johan Norberg to say "people are dying" because of the West's trade policies ("Poor Man's Hero," December), but he seems to have missed the point of the various successes he cites: The poor countries have something to do with making it work.

Norberg tells us that Taiwan, Vietnam, China, South Korea, Hong Kong, and Singapore have achieved success by going global and developing broad-based economies and that Kenya is now moving in a similar direction. Good for them. But shouldn't their success provide a model for those countries that slavishly adhere to inefficient economic policies? Could he at least tell us why those countries maintain outmoded systems when they, too, could make significant transformations?

Finally, Norberg is too sanguine about the pain suffered when jobs dis-

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appear, destined to reappear in cheaper economies. While he did express concern, it was almost pro forma, without any suggestion about how the pain might be minimized. It is, after all, the pain of economic disruption that produces much of the resistance to globalization.

Bertram H. Rothschild
Aurora, CO

Bob Barr, Civil Libertarian

"Bob Barr doesn't fit most people's image of a civil libertarian," writes Jesse Walker ("Bob Barr, Civil Libertarian," December).

I'll say. He certainly hasn't struck the Libertarian Party that way. In fact, the L.P. found Barr's record in Congress to be so odious that it specifically—and successfully—targeted him for defeat in his most recent race. I do not dispute Walker's claim that Barr has done his share on behalf of civil liberties. Unfortunately, I also have been forced to conclude at this point that his cheerleading for the drug war has been so vociferous and so relentless that it more than cancels out whatever good he has done.

Like many conservatives, Barr clearly believes that there should be a "drug exception" to the Constitution and Bill of Rights and that this exception can somehow be codified in laws that mete out punishment to (illicit) drug users and traffickers with draconian efficiency while leaving everyone else free to go about their business. It's a big lie and always has been. That Barr believes it so passionately, even as he talks up liberty and occasionally fights on its side, may make him an interesting tragic figure. But a civil libertarian? No. Sorry, but no.

Ethan Straffin
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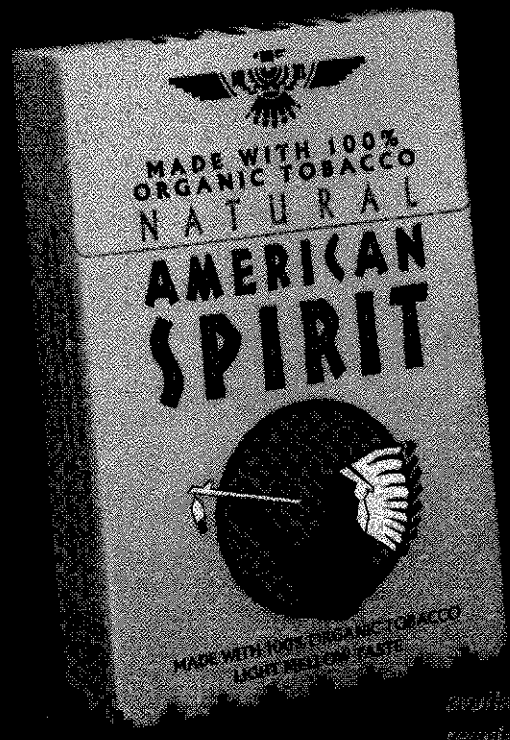

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Nation building aftermath; drug abuse cost estimates; contempt for free speech; got bilk?; do not pass go; victories for federalism; eminent domain for dummies; outing history

TSA confusion

That Won't Fly

Julian Sanchez

MANY AIRLINE passengers with common names—including actor David Nelson of *Ozzie and Harriet* fame—have been scratching their heads trying to figure out why they raised red flags on the federal "no fly list" distributed to airports around the country. Maybe they'll take consolation in knowing that the government doesn't seem to be sure either.

In December 2002, California anti-war activists Jan Adams and Rebecca Gordon were stopped while attempting to board a flight out of San Francisco. They subsequently filed a Freedom of Information Act request for documents on the Transportation Security Administration's list of suspicious characters and, almost a year after the initial incident, the FBI released a series of not-entirely-reassuring memos.

At least one official with the FBI's Civil Aviation Security Program, for instance, "was not able to identify the criteria, for one, as to what makes one a 'known' vs. a 'possible' threat to aviation, and other issues re interviewing passengers on the basis of the list." Another complained: "I have read many e-mails back and forth on the topic of dissemination and nothing seems clear. I assume the US military can have a copy of the list." Despite the confusion, the documents indicated that the bureau had not decided whether to add the list to the National Crime Information Center database, which police officers query during routine traffic stops millions of times each day.

It's not just the criteria for getting on the list that are uncertain. The FBI's documents included no hint as to how someone mistakenly put on can get himself removed. ◘

Nation building aftermath

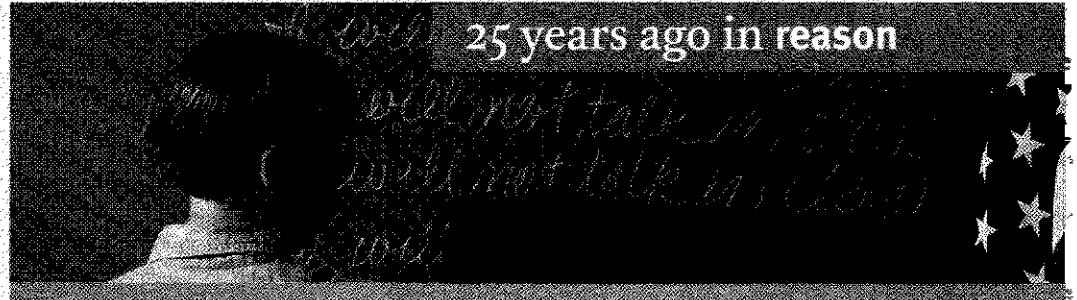
Democracy in Haiti

Brian Doherty

AN ECONOMY staggering from years of external sanctions, a militaristic dictatorship overthrown through American might, a U.S. president's commitment to democratic nation building—that was Haiti in 1994.

The aftermath of Washington's '90s effort to stabilize Haiti—a sequel to its '10s–'20s efforts—is worth contemplating as similar efforts progress in Iraq. Although physical assaults on U.S. personnel were rarer in Haiti than they have been in Iraq lately, the long-term results of our involvement there have proven dismal.

The United States intervened militarily (with U.N. backing) to return Jean-Bertrand Aristide to power in 1994 after he'd been overthrown by a military coup. Aristide's authority passed to one of his cronies, Rene Preval, in 1996. Preval dissolved parliament in 1999.



25 years ago in reason

"Wall posters [in China] have openly praised the economic achievements of... hated Taiwan.... One poster...acknowledged that 'Taiwan now has one of the highest standards of living in all of Asia.'"

—Robert Poole Jr., "The China Decision"

"The most potent and significant expression of statism is a State educational system. Without it, statism is impossible. With it, the State can, and has, become everything."

—Samuel L. Blumenfeld, "Why the Schools Went Public"

"The Inquisitor who tortured his victim to death claimed that he was saving her soul. The psychiatrist who tortures his victim in a living death claims that he is saving her mental health."

—M.E. Grenander, "Psychiatry's Sacred Cow: Thomas Szasz and the Myth of Mental Illness"

"'Destructive competition' only occurs in one's own industry, whereas 'healthy competition' is what the economy needs more of in other industries."

—John Semmens, "Regulation of the Truckers, by the Truckers, for the Truckers"

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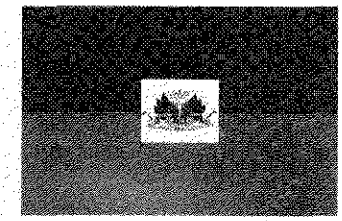


Now with Aristide back in power (he won a very democratic 92 percent of the vote in 2000, although most of the opposition boycotted the election and street-level voter intimidation and violence were widespread), Haiti is rated by the government watchdog agency Transparency International as the third most corrupt country in the world. Aristide's ruling Lavalas Family Party regularly postpones elections, all TV is state-operated, and thugs—apparently government-sanctioned—terrorize independent journalists. Unemployment is above 50 percent, literacy is below it, and Haiti has the lowest life expectancy and highest infant mortality rate in the Western Hemisphere.

Haiti was supposed to prove the Clinton administration's belief that democracy and stability could be exported through American money and might. But one Clinton State Department spokesman, contemplating the realities of Haiti, was forced to admit to *The Washington Times*, "You can't impose democracy."

Drug abuse cost estimates

Unreal Numbers

Jacob Sullum

When surveys indicate that drug use is steady or falling, bureaucrats and politicians trying to shore up support for the war on drugs can turn to another set of numbers: According to analyses commissioned by the federal government, "the economic costs of drug abuse" rose from $102 billion in 1992 to $143 billion in 1998. In a new Drug Policy Alliance report (available at drugpolicyalliance.org), Boston University economist Jeffrey Miron takes these numbers apart and explains why they do not constitute an argument for prohibition.

To begin with, many of the costs the government attributes to drug use—such as spending on law enforcement, productivity losses due to incarceration, and HIV-related health care expenses—are due wholly or partly to prohibition. Miron, author of the forthcoming book *Drug War Crimes: The Consequences of Prohibition* (Independent Institute), argues that "at least $93.1 billion should be entirely eliminated from the economic cost of drug abuse, and another $50.4 billion should be at least partially eliminated." In other words, prohibition-related costs represent more than two-thirds of the burden that drug warriors cite to justify prohibition.

Another problem with the government's numbers is the failure to distinguish between costs borne by drug users themselves and costs borne by others. "From the perspective of policy evaluation," Miron writes, "only the external costs matter." He also notes that people deterred from using illegal drugs may spend their money in ways that are equally damaging and that associations between drug use and criminality, poor health, or low productivity do not necessarily signify cause-and-effect relationships.

More fundamentally, Miron points out that calculations like these "say nothing about whether prohibition is a good policy" because they do not compare its costs and benefits to those of an alternative approach. They do not even tell us whether the costs of drug use are lower than they would be without prohibition. While the drug laws may reduce overall use of banned intoxicants, they also make drug use more dangerous—for example, by exposing users to the risks of arrest and black-market violence, encouraging drug injection and needle sharing, and making drug quality and dosage unpredictable. The upshot, Miron notes, is that "prohibition potentially increases total harm even while reducing drug consumption."

Who's a journalist?

Contempt for Free Speech

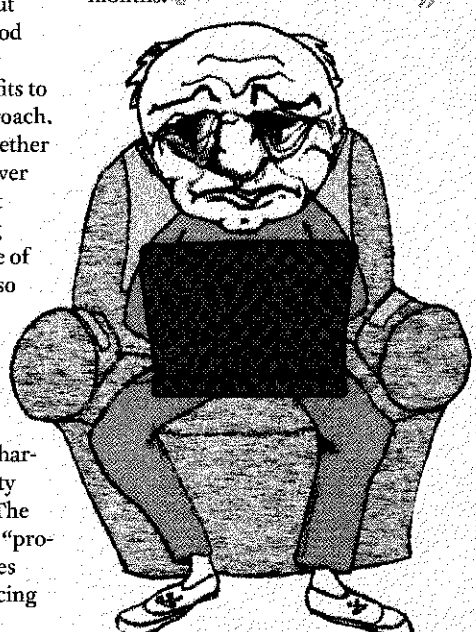
Brian Doherty

Paul Trummel is a cranky old man who made himself a terror to some of his neighbors at a federally subsidized housing complex for poor old people in Seattle. Now he has made himself a test case for determining who enjoys the protections of the First Amendment.

Trummel ran a Web site detailing, in often scabrous terms, his complaints about perceived mismanagement at the Council House complex. Its managers got a restraining order against Trummel, and Superior Court Judge James Doerty ordered him to stop publishing any personal identifying information of anyone associated in any way with Council House.

Trummel tried to evade the order by hosting his Web site in Europe. He was found in contempt of court and spent 111 days in jail for his illicit act of journalism. Since Trummel didn't work for a media company, Doerty said his claim to be a journalist with the right to publish what he pleased was "a self-serving fantasy."

An appeals court heard Trummel's case in late November. A ruling could take up to six months.



Quotes

"I think I'm the only member of the Senate Armed Services Committee who would reinstate the draft.... When I look at the problems of some of our kids in America nowadays and then I go visit the troops, I see what a great benefit it is to give people the opportunity to serve their country."

—Sen. James Inhofe (R-Okla.), in the December 21 *Time*

"The term 'profane'...includes the words 'shit,' 'piss,' 'fuck,' 'cunt,' 'asshole,' and the phrases 'cock sucker,' 'mother fucker,' and 'ass hole,' compound use...and other grammatical forms of such words and phrases (including verb, adjective, gerund, participle, and infinitive forms)."

—excerpt from H.R. 3687, a bill introduced by Rep. Doug Ose (R-Calif.) to expand broadcast regulations on profanity. The text of the bill could not be broadcast.

Source

"Follow the money" has long been a useful rule of thumb for observers of politics, but it's never been quite as easy as it is today. Fundrace.org compiles contribution data on the presidential contenders and organizes them in charts and color-coded maps showing where each candidate's major financial support comes from, as well as who elicits repeat donations, who's the favorite among the well-heeled, and who has the most grassroots support. You can even see who's got a penchant for splurging at which hotels. Al Sharpton seems fond of the Four Seasons; Dennis Kucinich settles for the Holiday Inn.

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Brickbats

New York City public school teachers have given a failing grade to the latest curriculum guide from the city's Education Department. Among many other errors, the guide told teachers to identify students' "strengthens and weaknesses" and to "think about a time when your family work together." The guide said teachers should explain the discipline code so "everyone understands how serious we all are in making schools that is safe for student's body's, Schools that is safe for students' feelings…." The guide also referred to George Orwell's *Animal Farm* as a story about the importance of rules. ▮

Texas housewife Joanne Webb is facing obscenity charges. If convicted, she could serve up to a year in jail and pay a fine as high as $4,000. Her crime? Selling a vibrator to undercover narcotics agents. ▮

The European Parliament will reportedly take up a bill next year that would require wild game to be certified as fit and healthy before it is shot. ▮

A Norwegian court has ordered the government to buy a car for a man who says he is too short to use mass transit. The man, who stands about 4 feet, 8 inches, says he was bullied as a child because of his height and has bitter memories of riding the school bus. The court ruled that society should not expose him to further psychological trauma. ▮

Louisville police found John W. Riddle riding in a car with a "known prostitute." According to the police report, Riddle had a bottle of Viagra in his pocket, and the prostitute told officers that he had picked her up to have sex. Both were charged with prostitution. Riddle has since resigned his position as chairman of a local anti-pornography group that led efforts to keep adult bookstores and sex shops from opening in residential neighborhoods. ▮

Smokers need not apply for sheriff's deputy jobs in Riverside County, California. New hires will soon have to sign a contract pledging not to smoke either on or off the job. Officials say the move is a necessary cost-saving measure: Under California's workers' compensation system, illnesses caused by smoking are considered "job related" and must be paid for by the county. ▮

Shirley Hammond's six-year-old grandson had his heart set on a Super Sound Socker Bopper Bop Buddy, a talking inflatable punching bag. But when the 68-year-old Quebec woman tried to order one for him, Sears Canada refused, fearing it would run afoul of Quebec's language laws. The problem? The Bop Buddy speaks…but not in French. ▮

Sen. John Kerry (D-Mass.) doesn't want his NRA TV. He's sent a letter to the Federal Communications Commission urging that the National Rifle Association not be granted a media exemption to campaign finance laws banning "electioneering communications," even if the lobbying group follows through on plans to buy a TV or radio station. No word yet on whether the presidential hopeful considers **reason** a "real" media outlet; we're keeping our fingers crossed. ▮

Charles Oliver

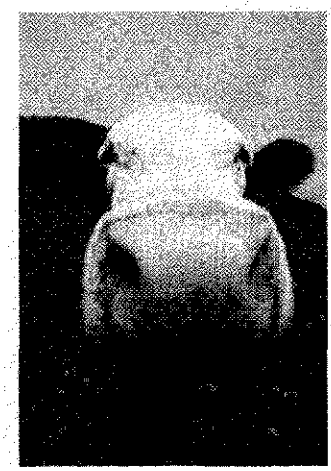
Compelling speech

Got Bilk?

Julian Sanchez

THE FEDERAL Dairy Promotion Program is determined to help dairy farmers. With their own money. Whether they like it or not. But two traditional dairy farmers are determined to get government hands off their udders.

Pennsylvanians Joseph and Brenda Cochran like to do things the old-fashioned way. "We don't use BST, a growth hormone," explains Joseph, "and we let our cows graze a lot; they get a lot of fresh air and TLC." Since a



selling point for the Cochrans' products is that they're different from those produced on larger factory farms, they don't think they benefit from generic "Got Milk?"-style ads, which imply that one bottle of the white stuff is pretty much the same as any other. The Cochrans also believe the ads tend to benefit processors and retailers, not the farmers who deliver raw dairy products.

But under the Dairy Act, they're still required to pay almost $4,000 a year to fund such ads. According to Joseph, it's as if the owner of timberland "had to pay to advertise Louisville Sluggers and broom handles."

Represented by the D.C.-based Institute for Justice, the Cochrans are fighting for the right to opt out of the program on free speech grounds. Some precedent is on their side: In 2001 the Supreme Court ruled in a similar case, concerning mushroom ads, that "First Amendment values are at serious risk if the government can compel a particular citizen, or a discrete group of citizens, to pay special subsidies for speech on the side that it favors."

The Cochrans nevertheless lost a District Court battle in 2002 and have now turned to the U.S. Court of Appeals for the 3rd Circuit. Coming months will reveal whether the court believes free speech does a body politic good. ▮

Excess school savings

Waste Not, Why Not?

Lisa Snell

THE WEB SITE for the Massachusetts State Auditor's Office proudly displays the motto, "The Cruelest Tax of All Is Waste." The same agency has agreed to audit 43 of the state's charter schools for saving too much money.

The Boston-based Citizens for Public Schools (CPS) called for the audit after discovering that the charter schools had $37 million in reserve funds, while Massachusetts' school districts have budget shortfalls. This despite the fact that, unlike traditional public schools, Massachusetts' charter schools must pay for their facilities out of their per-pupil funding.

CPS analyst Paul Dunphy argues that the unspent funds should be returned to the school districts. Local charter school operators contend that saving money is legal and point out that most of the reserves came from »

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Balance Sheet

Jeff A. Taylor

Fee Simple

The Prescription Drug User Fee Act of 1992 has not resulted in companies buying federal approval of new drugs. A University of Michigan study finds the $1 billion in fees bought big, politically active firms no advantage before the FDA.

Stubborn Ash

The tony Players Club in New York City challenges the city's smoking ban on First Amendment grounds—as a violation of "expressive association."

High Rolling

On the 100th anniversary of the Wright brothers' first flight, Burt Rutan's Scaled Composites becomes the first private company to send up a piloted rocket at supersonic speeds.

International Calamity

Countries with a functioning Net beat back a bid by the U.N. to "manage" the Internet for the good of mankind. Instead, Net operations will be studied, with a report due in 2005. Whew.

Win DVD

An Oslo appeals court upholds a lower court's ruling that Jon Lech Johansen, a.k.a. "DVD Jon," did not intend his DeCSS software to be used to pirate DVDs.

Learning Curve

Some local school systems say "thanks, but no thanks" to No Child Left Behind, preferring to do without federal funds rather than submit to a one-size-fits-all education plan.

Club Rules

Finding that suspicionless drug screenings of students may violate the state constitution, the Pennsylvania Supreme Court allows a challenge by two students to proceed. One justice says the policy asks students to "choose one: your Pennsylvania constitutional right to privacy or the chess club."

Mania's Agony

Turns out the supposed horrors of the drug MDMA were largely invented by single researcher. Now Ecstasy faces an uphill battle to receive an unbiased evaluation.

Secret Sharer

The spying case against Army Capt. James Yee, the Gitmo chaplain, unravels as prosecutors steadily reduce the charges. Yet they continue to claim that Yee's counsel cannot see all the evidence against him due to national security concerns.

Customs Duties

France moves to ban any overt display of religion from public places, claiming secular society cannot survive head scarves or turbans or crucifixes. Millions take to the streets in opposition.

Forced Out

A bid to move the NBA's New Jersey Nets to Brooklyn would displace 1,000 families, a city councilwoman claims. Many city and state politicos favor building a new arena for the team, and the site developer vows to make any relocations "as easy as possible."

Slight Graft

Faced with an acute shortage of men and women in uniform, the Pentagon issues stop-loss orders to prevent personnel from going back home even after their hitches technically end.

Cashing In

Casinos, car dealerships, and other "cash intensive" businesses join the War on Terror as the FBI gets the power to demand records from them without first going to court.

Unnatural Act

Virginia opts not to comply with a Supreme Court ruling striking down anti-sodomy statutes because the state would lose ongoing court cases if it did. State law prohibits all sodomy, even between married couples.

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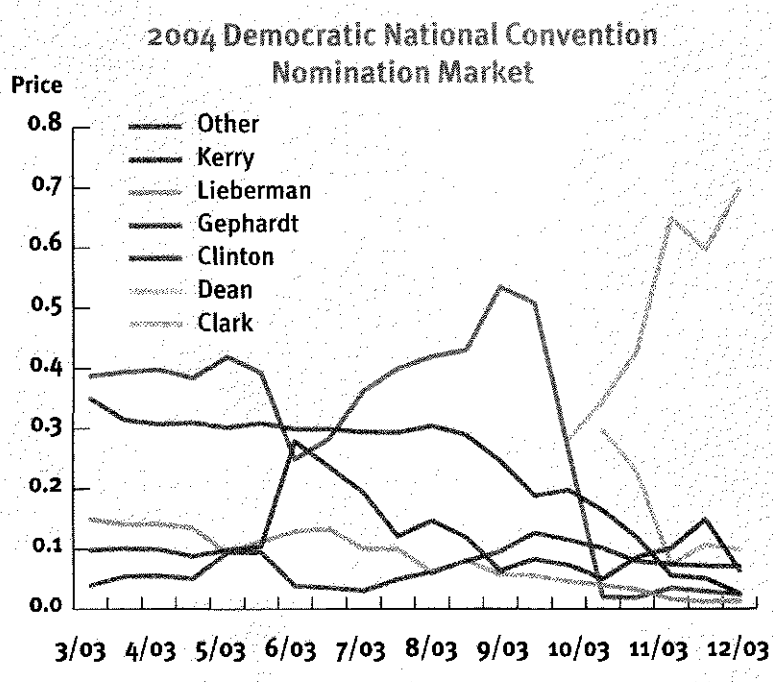
Data

InvestaPundit

Julian Sanchez

They say the market as a whole is smarter than any individual investor. Therefore, it ought to be exponentially smarter than any one political pundit. That, anyway, is the theory behind the Iowa Electronic Markets, a project run by the University of Iowa's business school. Just as investors can buy futures contracts on the price of pork bellies, political junkies can risk real money on political outcomes—such as, in the graph below, the 2004 Democratic nomination.

In past elections, political futures markets have outperformed public opinion polls as predictors better than half the time. It looks like the market's crystal ball is still working. By late October, when a *Washington Post*/ABC News poll found Howard Dean leading Joseph Lieberman, John Kerry, Wesley Clark, and Dick Gephardt by only three or four points each, Dean had already emerged as the market's clear favorite. Maybe Al Gore picked up a few easy bucks before making his endorsement?



Source: Iowa Electronic Markets, University of Iowa

private donations. Community Day Charter School, for example, has about $1.3 million in savings, most of it from a fund-raising campaign and earmarked for building renovations.

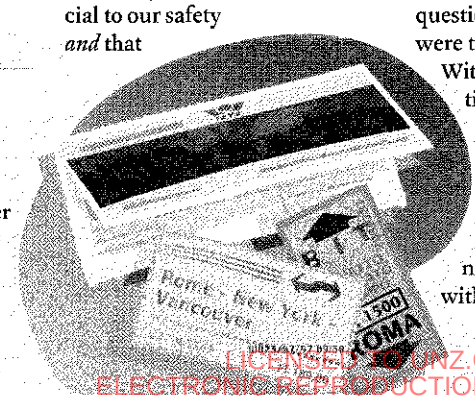
Transit visas stalled

Do Not Pass Go

Jesse Walker

YOU HAVE TO admire whoever dreamed up this headline for a government press release: "HOMELAND SECURITY AND DEPARTMENT OF STATE TAKE IMMEDIATE STEPS TO MAKE AIR TRAVEL EVEN SAFER." It covers all the bases, reassuring us that what they're about to do is crucial to our safety *and* that they're already doing an impeccable job of keeping us safe. If safety is measured by inconvenience, it's right on both counts.

The "immediate steps" in question, enacted last August, were to suspend the Transit Without Visa and International-to-International Transit programs. Both programs allowed people traveling from one foreign country to another to board connecting planes on U.S. soil without weathering America's border control bureaucracy. The departments plan to restore the programs, the press release informs us, "as soon as additional security measures can be implemented to safeguard the programs from terrorists who wish to gain access to the U.S. or U.S. airspace without first going through the consular screening process."



It's unclear just what holes in security the investigators suspect they'll find, or how long it will be before the programs are reinstated. As the answers to those questions become more clear, we'll have a better sense of whether this is a short-term measure to seal a few cracks or a long-term source of ill will and extra expense for foreign travelers.

Victories for federalism

Commercial Appeals

Jacob Sullum

GIVEN ITS reputation as the most left-leaning federal appeals court, the 9th Circuit is not the first place you'd expect to find a resurgence in federalism. But recently it has distinguished itself as one of the few federal courts trying to put limits (albeit broad ones) on Congress' power to regulate interstate commerce.

In *United States v. McCoy*, decided in March 2003, the court found that mere possession of homemade child pornography was too remote from interstate commerce to justify federal prosecution. It relied on *United States v. Lopez*, the 1995 case in which the Supreme Court found that Congress had exceeded its authority under the Commerce Clause when it tried to ban gun possession in or near schools.

Eight months later, in *United States v. Stewart*, the 9th Circuit applied similar logic in overturning a conviction for possession of homemade machine guns. Rejecting the argument that the materials for the machine guns had "moved in interstate commerce," Judge Alex Kozinski wrote: "At some level, of course, everything we own is composed of something that once trav-

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Outing History

Julian Sanchez

Louis Crompton

They call it "the love that dare not speak its name" for good reason. Even after the explosion of literature on gay issues since the 1970s, comprehensive examinations of homosexuality in history have been few. An exception is Louis Crompton's new *Homosexuality and Civilization* (Harvard University Press), a sweeping account that was 18 years in the making. Crompton, a professor emeritus of English at the University of Nebraska, presents both a catalog of horrific abuse and persecution in the West and a surprising history of tolerance in some Eastern cultures, such as Japan, where homosexuality was "an honored way of life among the country's religious and military leaders." Assistant Editor Julian Sanchez spoke with Crompton in December.

Q: What in your research surprised you most?

A: The material on the widespread acceptance of homosexuality in Chinese and Japanese culture, which had been obscured because in the 19th and 20th centuries those countries became much more homophobic. Also, Islam theoretically allows for the death penalty for homosexuality, but the love and appreciation of young males was prevalent in poetry. The pretense was that those relationships were platonic, but the *feelings* were acceptable, whereas to write a love poem to a boy in 11th-century England would have been unthinkable. There's since been a return to the seventh century, when sodomites were executed by having a wall pushed over on them. The Taliban reinstituted that practice, using bulldozers to push over the walls. Medieval jurisprudence meets modern technology.

Q: Attitudes about homosexuality in East and West seem to have flipped now. Why?

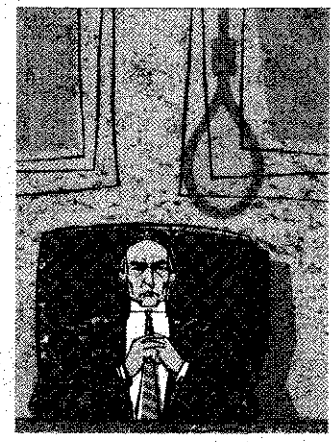
A: The West exported homophobia to the Third World and now is having to face the consequences of that. The Third World Anglican congregations objected most strongly to the ordination of homosexual bishops. China became much more anti-gay under Marxist influences. The Marxist line was that homosexuality was counterrevolutionary, a product of capitalism that would disappear when economic conditions changed. My partner is a Cuban who lived there when Castro came to power and saw many gay men taken away to concentration camps. In Japan it was simply the absorption of Western and European attitudes.

Q: Conservatives claim that acceptance of homosexuality undermines heterosexual families. Did you find any evidence for that?

A: The striking example there would be China. Very few civilizations have put such emphasis on the family, even instituting ancestor worship. But this extreme emphasis didn't lead to or require the kind of homophobia we saw in Europe.

eled in commerce. This cannot mean that *everything* is subject to federal regulation under the Commerce Clause, else that constitutional limitation would be entirely meaningless."

In *Raich v. Ashcroft*, decided a month later, the court ruled that the Controlled Substances Act "is likely unconstitutional" as applied to medical marijuana users in California. It overturned a lower court's refusal to issue a



preliminary injunction protecting two patients from raids by the Drug Enforcement Administration. The patients' attorney, Boston University law professor Randy Barnett, noted that "federalism is not just for political conservatives." ⊠

Eminent domain for dummies

Facts on the Ground

Matt Welch

In 2001 Willard Eisner was approached by the San Joaquin Board of Education about selling a 36,000-square-foot chunk of his 96,000-square-foot parcel of commercial land in Stockton, California. He wasn't using the area in question, and board officials wanted space for a new 100-student high school. "I said, 'I'm not sure we want to sell it,'" Eisner recalls, "and they said, 'Well, we'll use eminent domain.'" So he sold, for an appraised market value of around $280,000, and considered his interaction with government land grabbers finished. It wasn't.

In August 2003 Eisner, a retired businessman who lives in Fresno, came back from a vacation in Hawaii to find an odd message on his voice mail: The school builders had botched the job, mistakenly building on 10,000 square feet of his property, an area that the car dealership to which he leases the land had used for auto detailing. The board's proposed remedy for this grievous error: legalizing the land grab through yet more eminent domain. "They expected us to absolve the mistake," Eisner says. "They would just pay us for the land, and that would be the end of it."

Worse, the board kept building on the forbidden land, even after it knew the construction was illegal. When the city finally shut down construction, Eisner's lawyer asked for the right to tear down the protruding bit, and a local judge eventually issued restraining orders to both sides. Officials, instead of being chastened, were indignant. "If there's somebody running around the community who wants to tear down much-needed schools," county schools office spokesman Trent Allen told *The Record* newspaper, "that's their prerogative."

On December 10, the Board of Education voted 4–1 to seize the property for the market-appraised value of $165,000. Eisner was demanding $270,000 and said the next day that he hoped to reach a settlement soon.

Eisner still doesn't object to eminent domain as such. "If it's done properly, then I have no qualms with it," he says. "But you just don't make a mistake and say, 'Well, we made a mistake, so we'll fix it through eminent domain.'" ⊠

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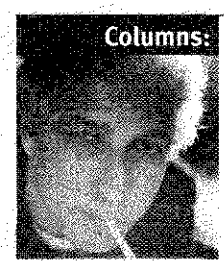

Waiting for Antar

Saddam, suicide, and cultural despair

When Adeeb Berakat, a 35-year-old Palestinian in Jenin, watched the now-famous footage of a captured and docile-appearing Saddam Hussein being inspected for lice, he became angry. "Saddam has been humiliated," he told a reporter, although his next words suggested that it was Berakat who felt humiliated by Saddam. "As he has been asking the people to fight," he added, "he should have fought himself. If he did not fight he should have killed himself."

In Baghdad a 28-year-old chauffeur named Kassem Shelshul complained that Saddam "swore before the war that Iraqis would fight America, and then he didn't fire a single shot." What had Shelshul expected? "We expected him to commit suicide or resist."

"It would have been better if he had been killed," said Abdel Kader, a Fatah leader, in Gaza. "At least he would have died in an honorable way."

In Cairo the editor of the Egyptian weekly *Al Asbou*, a man named Mustafa Bakri, appeared on television to lament that "it's a black day in the history of the Arabs. It's a humiliation."

The footage of Saddam "is nonsense," exclaimed a 66-year-old Iraqi named Haj Abu Daoud. "Who," he asked, "could capture Saddam?" A Bagdad cab driver named Taher took the same view. "It's not possible," he said of the capture. "It must be a double."

But it wasn't a double; it was more a case of cultural fraud. Saddam Hussein is only the latest in a series of mock heroes of the region who have assumed a posture of strong, cunning, and courageous leadership, only to lead their Pan-Arabist followers to catastrophe. These mock heroes have led their admirers not merely to political and military disaster but even to a sense of personal humiliation and shame.

While many Arabs welcomed Saddam's capture, others had at least hoped for redemption in Saddam's resistance and death. According to the first account of the capture (since augmented by numerous rumored variations), what they got was a bedraggled old man hiding in a dark hole, reportedly armed but calling to his discoverers, "Don't shoot!"

The historical and cultural model of the courageous Arab redeemer could hardly stand in greater contrast. That figure is fearless, whether in the face of the enemy or of death itself. He is magnanimous in victory, pious before God, noble, generous, and just to his own people. His soul is as filled with poetry as his sword is stained with the blood of the unworthy.

There is a long line of fictional and historical figures who embody this role in Arab cultural artifacts, whether traditional oral epics or modern TV serials, from Abu Bakr to Harun al-Rashid to Saladin. For that matter, the fearless but noble Arab warrior even turns up in medieval European literature, appearing, for example, in Boccaccio. The original model, however, appears to be a black pre-Islamic Bedouin warrior known as Antar.

Antar is a remarkable character; his saga was recited in Arab coffeehouses for centuries (and sometimes still is), absorbing Islamic values despite predating the coming of Islam. Among the rousing adventures of this poet-warrior was the rescue of an emperor of Rome itself (he's called King ibn Marqus) at the head of a Byzantine Greek force, even though the Byzantines were enemies of the Arabs. Antar was so noble a figure that even the Prophet Muhammad is reported to have expressed a wish to have known him.

When Westerners first encountered the

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Antar epic in the 19th century, they swooned, proclaiming it the Arabic *Iliad*. The saga itself has shrunk in recent years; Westerners have nearly forgotten Antar, and Arabs now are likely to treat his adventures as children's literature. Antar's monomythic shadow, however, is a long one, and it has fallen across the shallow myth of Saddam repeatedly.

It's visible, for example, in the footage of Saddam wielding a great sword with a single hand as his Ba'athist sycophants applaud stupidly. Saddam, suggests the posture, is a true desert knight in the grand tradition. It's apparent too in Saddam's attempts at writing novels, because the worthy hero is a man whose strength and courage are leavened by poetry.

Of course, Saddam's heroic pretensions are especially visible in the grand edifices, like the Mosque of the Mother of All Battles, that he built to honor his grandiosity. Like his fellow Tikriti Saladin (supposedly Saddam's proximate model), like the magnificent Antar, Saddam is a hero of mythical proportions. So said the propaganda embraced by those Arabs seeking redemption in him. The newspapers said otherwise.

Antar's own death, by the way, is worth pausing over, because in one bizarre detail it overlaps Saddam's ignominious capture. According to the traditional recitation, Antar dies at the hands of an old enemy whom he long ago blinded but who has learned to aim his arrows by sound. This enemy attacks Antar when the hero is most vulnerable: when Antar exits a feast to urinate. Though severely wounded, Antar silently tracks his blind enemy and kills him. As the dying Antar is leading his band to safety, however, they are again attacked. To save his men, he asks to be set one last time on his horse, his lance in his hand: He will protect them in death as he did in life. The attackers, spying him, don't dare approach. Finally, however, they come near, and finding that Antar is dead, they bury him with honor.

What has this to do with Saddam? *Time* magazine's account of Saddam's first interrogation revealed the one thing that Saddam might have picked up from the Antar saga: a concern about urinating. "When asked 'How are you?'" reported *Time*, "Saddam responded, 'I am sad because my people are in bondage.' When offered a glass of water by his interrogators, Saddam replied, 'If I drink water I will have to go to the bathroom, and how can I use the bathroom when my people are in bondage?'"

Saddam is a hero of mythical proportions. So said the propaganda embraced by those Arabs seeking redemption in him. The newspapers said otherwise.

What's wrong with the Antar model? Nothing's wrong with the story, or with the character. Nothing's wrong, in the abstract, with using such a model politically; the contemporary politics of many societies resonate with traditional narratives of all kinds.

One American monomyth, notable in the context of the Iraq war, was proposed in 1977 by academics Robert Jewett and John Shelton Lawrence. They argued the narrative that most resonates with Americans involves the rescue from evil of a helpless group by a powerful outsider who eventually disappears.

In any event, Antar and other similarly brave heroes have much in common with European figures of chivalry, which shouldn't be surprising: The Arabs of Spain greatly influenced medieval song and story on the other side of the Pyrenees.

The problem is that the myth is both encouraged and exploited by regimes that would never allow it to be fulfilled, and that is a recipe for cultural despair.

Take, for example, Iraq's own case of Gen. Adnan Khairallah, a relative by marriage of Saddam's and a man with a reputation for competence and courage. Khairallah rejected privilege and chose to bear the hardships of his men, and was in turn esteemed by them.

Whether he was a modern Antar is not the point; he seems not to have been a mere posturing thug like Saddam. What happened to Khairallah? He died in a helicopter crash, one that almost everyone believes was arranged by a Saddam jealous of Khairallah's popularity.

There is a glimpse of the region's tragedy, and its despair. The problem is not that Antar cannot again be born; it is not that, once born, he cannot die with honor. Rather, too many of the region's people are invested in celebrating those who wait to kill him.

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Opening Marriage

Do same-sex unions pave the way for polygamy?

THE DEBATE OVER same-sex marriage moved closer to center stage last November, after the Massachusetts Supreme Judicial Court ruled that denying marriage rights to gay couples violated the state constitution.

To a large extent, the debate is now less about homosexuality than it is about marriage. Except on the far right, objections to same-sex marriage are rarely couched in terms of moral objections to homosexual relationships. Historically in our culture, the argument goes, marriage has meant the union of one man and one woman. Change it to include a union of two men, and who's to say that it shouldn't be redefined further to include one man and two women, two women and three men, or any other possible combination?

At first glance, this argument may seem like a red herring. Yet it is taken seriously by noted legal scholars who are hardly hostile to equal rights for gays, such as Richard A. Posner of the U.S. Court of Appeals for the 7th Circuit and Eugene Volokh of UCLA Law School. Volokh, who supports same-sex marriage but believes the issue should not be settled by the courts, cautions that "slippery slope" arguments should not be dismissed lightly.

Not long ago, warnings that the Equal Rights Amendment or laws prohibiting discrimination on the basis of sexual orientation would lead to the legalization of gay marriage were dismissed as "hysterical" scare tactics. Yet the Massachusetts court relied precisely on such provisions to strike down the same-sex marriage ban as discriminatory.

The Massachusetts ruling states that the right to "marry the person of one's choice" is a fundamental right, albeit "subject to appropriate government restrictions in the interests of public health, safety, and welfare." Could it include the right to marry more than one person?

In the recent book *Same-Sex Marriage and the Constitution*, political scientist and lawyer Evan Gerstmann argues that polygamy is different since the would-be polygamist can still marry the person of his *first* choice. Yet one may counter that having multiple spouses *is* the polygamist's first choice—or that, as Posner notes in his review of Gerstmann's book in *The New Republic*, the woman who wants to be the polygamist's *second* wife is barred from marrying the person of her first choice. (Most commentators seem to equate polygamy with polygyny.)

Indeed, gay marriage proponents have offered no substantive arguments to show that the reasoning used to assert the right to same-sex marriage could not be extended to plural marriage as well. They merely point out that at present there is no push to legalize polygamy. Likewise, the Massachusetts court majority dealt with the issue by stating that the plaintiffs in this case "do not attack the binary nature of marriage."

Yet a polygamy rights movement could certainly gather cultural and political momentum in the future. (See "Swingers of the World, Unite!," page 52.) If that happens, Volokh suggests, some courts may discover a constitutional right to plural marriage, "citing the Massachusetts decision as an eminently logically applicable precedent."

Would that be such a terrible thing? If someone has two, three, or six spouses of either sex, they are presumably all consenting adults; if they are harming anyone, it is only themselves. My own belief is that polygamous relationships are likely to involve imbalances of power and even psychological abuse, and that they carry a high risk of instability and stress. "Polyamory"

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advocates talk a lot about transcending sexual jealousy, but plural marriages are rife with jealousy and tension even in cultures where polygamy is a longstanding tradition. (One reason plural marriage may prove far harder to legalize than same-sex marriage is that people who have been personally hurt by polygamy will be available to speak out against it.) But if that's what some people want, should the state restrict their choices for their own good?

On the other hand, legalizing polygamy would alter the state of marriage in general far more than gay marriage could. Allowing Jane to marry Ann does not in any tangible way change Sally's marriage to Bill; allowing Sally and Bill to marry other people while remaining married to each other changes it drastically. Even if they never exercise this option, the mere possibility of it could cause enough anxiety to destabilize a marriage subtly.

While legalizing same-sex unions is extremely unlikely to entice any heterosexual man to leave his wife and marry another man, having multiple partners could potentially be a temptation for anyone, though it's likely that social disapproval would still discourage plural marriages for most people.

Then again, the potentially harmful consequences of polygamy could exist without legalized plural marriage. Open marriages and de facto plural marriages already exist. Such relationships may even receive a measure of legal recognition: In 2000 the longtime mistress of married television correspondent Charles Kuralt won a court dispute with his widow over a property he owned in Montana.

The primary issue is not the legal benefits for multiple spouses but the perception that the state, and by implication we as a people, will be giving sanction to something a majority of Americans regard as morally objectionable—which, of course, is also at stake in the debate over gay marriage.

One proposed solution is simply to get the state out of the marriage business. As the Cato Institute's David Boaz asked in a 1998 article for *Slate*, "Why should the government be in the business of decreeing who can

A polygamy rights movement could certainly gather cultural and political momentum in the future. Would that be such a terrible thing?

and cannot be married?" Boaz suggested that people could simply enter private marriage contracts, either standard or personalized, and the government could enforce these contracts like any other agreement, with no differential legal treatment on the basis of marital status. Meanwhile, religious institutions could decide what kind of unions to solemnize.

Boaz explicitly proposed the privatization of marriage as a solution to the gay marriage debate: "It would put gay relationships on the same footing as straight ones, without implying official government sanction. No one's private life would have official government sanction—which is how it should be." At the same time, his article is based on the assumption that privatized marriage will still be a union of "two individuals."

Boaz confirms that he would indeed favor such a limitation. "Two people seems like a good number for a marriage," he says. "People should be allowed to make just about any contracts they want among themselves. But the laws that relate to 'marriage' reflect society's desire to support marriage as an element of stability in social order and the raising of children." For that purpose, he believes, the government has a right to place some restrictions on which contracts it will recognize as marriages—at least as long as special laws related to marriage continue to exist.

But that brings us back to square one in the gay marriage debate: Recognizing the legality of a marriage implies its endorsement by society. A partial deregulation of marriage is unlikely to satisfy either conservatives or libertarians. But then, true privatization of marriage would likely generate furious opposition as well. Conservatives would see it as the final destruction of the family. Meanwhile, many advocates of same-sex marriage would no doubt feel that the marriage rights they had won were reduced to an empty prize. They might even suspect that the heterosexual majority was willing to destroy the institution of marriage rather than open it to gays.

Whatever the philosophical merits of such a proposal, the chances of privatizing marriage in the foreseeable future are virtually nil. Far from being depoliticized, marriage is likely to remain a major battlefield in the culture wars. ▮

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Two-Faced Power

I love my country, but my government confuses the hell out of me.

Do policy makers care about consistency at all? To judge from their recent jumble of mutually exclusive directives, their actual goal might be mass psychosis.

Consider the ban on the diet supplement ephedra, a mild stimulant that human beings have used for thousands of years. The Food and Drug Administration could not cite any substantial threat to human health posed by the drug, merely an opinion that bureaucrats in Washington would not use the stuff.

OK, fair enough. If absolute suppression of even the smallest health risks is the goal, then let's roll with the ban. Except that across town from the ephedra ruckus, another group of bureaucrats was busy changing the federal rules on how much sleep truckers need.

The Bush administration, after much lobbying from trucking firms, decided to let truckers drive longer provided they sleep more. But you cannot spit in a truck stop or convenience store without hitting a display of something containing ephedra. So at the same instant the feds allow truckers to drive longer, they ban something truckers commonly use to stay awake. Or was the idea to make ephedra as easy to get and use as crank?

Wouldn't it be simpler and safer to let truckers drive as long as they want, provided they *take* ephedra? Is that any less nuts?

Wacky policy on the ground just leaves me shaking my head, but recent moves in the air have me shaking with rage. Once again the public is left to parse out the secret, hidden policy in the face of obvious nonsense.

First, the policy: Absent "sufficient" on-board security measures, the U.S. will use fighter aircraft to escort flights from overseas to American airports. In effect, the U.S. is saying to foreign governments, "Put sky marshals on your flights, or watch us park F-16s on your wingtips."

Threatening to blow planeloads of innocents out of the skies unless your demands are met is insane, but the U.S. government is doing it.

This is terrorism, albeit low-grade, undertaken to fight terrorism. Threatening to blow planeloads of innocents out of the skies unless your demands are met is insane, not to mention rewarding for your enemies. Just imagine what a chuckle Osama and crew get from the knowledge that they can depend on the Pentagon to put hundreds, perhaps thousands, of Americans and Europeans under threat of violent death merely by ramping up Al Qaeda telecom traffic. Talk about force multiplication.

Meanwhile, some members of Congress just pulled a doozy of a flip-flop, one that may just scamper down the memory hole thanks to our new definition of free speech.

After the nation's first mad cow case was discovered, Congress hastily moved to reverse itself and ban the sale of sick or "downer" beef for human consumption. In doing so, some House Agriculture Committee members reversed the votes they had made just weeks before on the same issue. I'm no cattle expert, but the crucial difference seems to be that during the first vote no one was paying any attention except the beef and dairy interests who gave money to the members of Congress, whereas the second vote led the evening news.

It isn't the crass political opportunism that's the confusing part. It's how the public is supposed to respond to it that has me flummoxed.

If I were to get together with other interested citizens to form Beef Eaters Against Fraud (BEAF), with the express goal of removing the flip-floppers from office, the Supreme Court says I can't do anything too effective. Now that most of the Bipartisan Campaign Reform Act has been upheld, using my First Amendment rights violates the law. So even if we figure out what policy makers are up to, they don't have to answer for it.

Raving moonbats have long posited a secret, gnostic government driven by hidden goals. I'm beginning to hope they are right, just so something will make sense. ■

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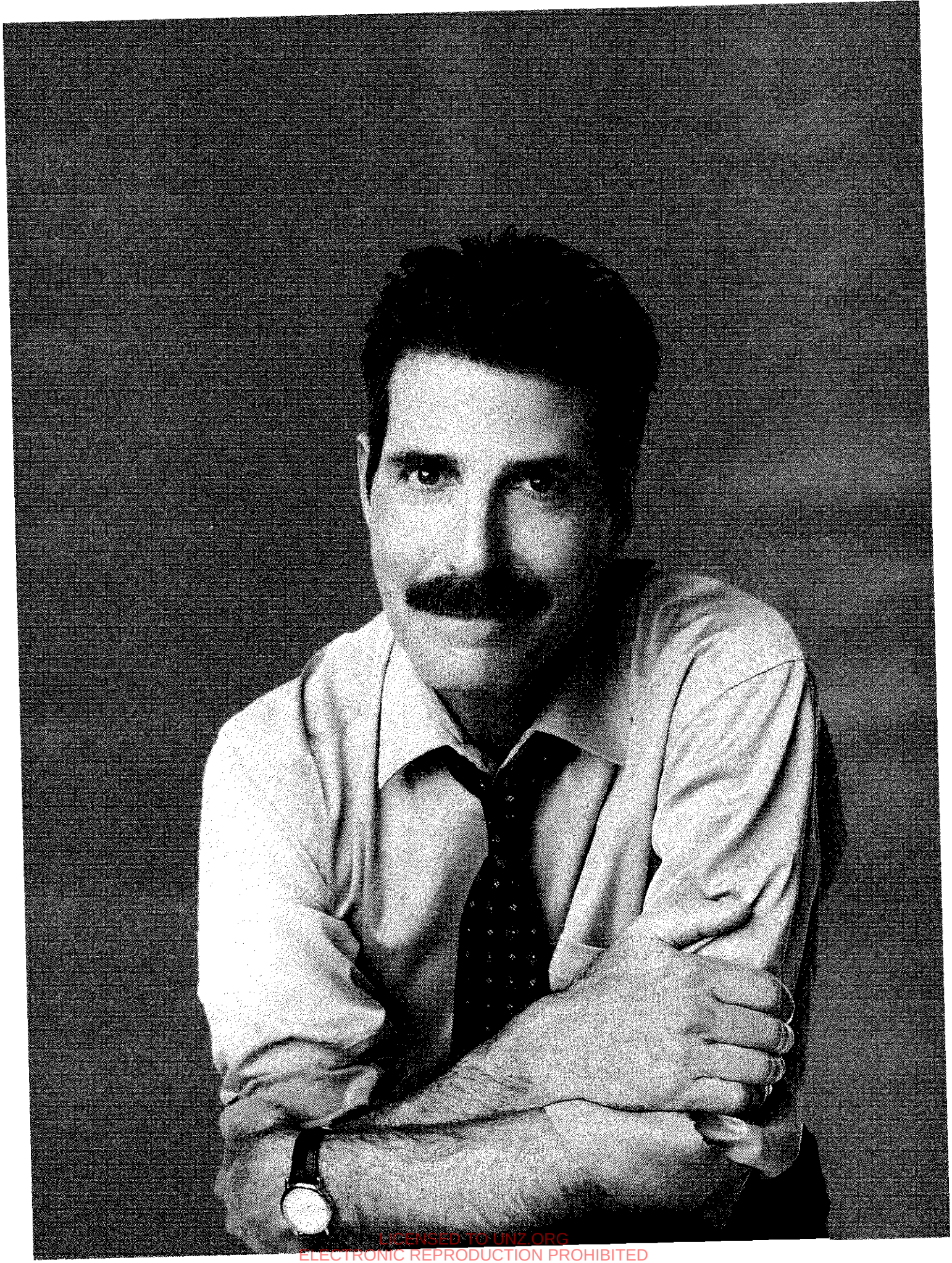

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Confessions of a Welfare Queen

How rich bastards like me rip off taxpayers for millions of dollars

John Stossel

Law grinds the poor, and rich men rule the law.
—Oliver Goldsmith

RONALD REAGAN MEMORABLY complained about "welfare queens," but he never told us that the biggest welfare queens are the already wealthy. Their lobbyists fawn over politicians, giving them little bits of money—campaign contributions, plane trips, dinners, golf outings—in exchange for huge chunks of taxpayers' money. Millionaires who own your favorite sports teams get subsidies, as do millionaire farmers, corporations, and well-connected plutocrats of every variety. Even successful, wealthy TV journalists.

That's right, I got some of your money too.

My Life as a Welfare Queen

In 1980 I built a wonderful beach house. Four bedrooms—every room with a view of the Atlantic Ocean.

It was an absurd place to build, right on the edge of the ocean. All that stood between my house and ruin was a hundred feet of sand. My father told me: "Don't do it; it's too risky. No one should build so close to an ocean."

But I built anyway.

Why? As my eager-for-the-business architect said, "Why not? If the ocean destroys your house, the government will pay for a new one."

What? Why would the government do that? Why would it encourage people to build in such risky places? That would be insane.

But the architect was right. If the ocean took my house, Uncle Sam would pay to replace it under the National Flood Insurance Program. Since private insurers weren't dumb enough to sell cheap insurance to people who built on the edges of oceans or rivers, Congress decided the government should step in and do it. So if the ocean ate what I built, I could rebuild and rebuild again and again—there was no limit to the number of claims on the same property in the same location—up to a maximum of $250,000 per house per flood. And you taxpayers would pay for it.

Thanks.

I did have to pay insurance premiums, but they were dirt cheap—mine never exceeded a few hundred dollars a year.

Why does Uncle Sam offer me cheap insurance? "It saves federal dollars," replied James Lee Witt, head of the Federal Emergency Management Agency (FEMA), when I did a 20/20 report on this boondoggle. "If this insurance wasn't

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here," he said, "then people would be building in those areas anyway. Then it would cost the American taxpayers more [in relief funds] if a disaster hit."

That's government logic: Since we always mindlessly use taxpayer money to bail out every idiot who takes an expensive risk, let's get some money up front by selling them insurance first.

The insurance, of course, has encouraged more people to build on the edges of rivers and oceans. The National Flood Insurance Program is currently the biggest property insurance writer in the United States, putting taxpayers on the hook for more than $640 billion in property. Subsidized insurance goes to movie stars in Malibu, to rich people in Kennebunkport (where the Bush family has its vacation compound), to rich people in Hyannis (where the Kennedy family has its), and to all sorts of people like me who ought to be paying our own way.

When my crew was working on the *20/20* story on this indefensible insurance subsidy, producer David Sloan was shooting on the elegant Outer Banks of North Carolina. A man who saw our camera invited Sloan to videotape inside a luxurious beach mansion he was renting. Sloan accepted and was surprised to see, taped to the refrigerator, a picture of presidential hopeful (then House majority whip) Richard Gephardt.

"Why is his picture here?" Sloan asked.

"He's an owner of the house," answered the renter.

Aha, a surprise twist to our story: A Missouri congressman owns expensive beachfront property insured by taxpayers. We called Rep. Gephardt's office and asked to interview him about flood insurance. I was excited. He and I had something in common: We were both welfare queens. I thought he might say something like: "Yes, it's disgraceful—we shouldn't get special protection because we are rich enough to build on beaches. I'm trying to end this boondoggle." But when I interviewed him, he just smiled blandly and kept saying Congress would "look into the program."

Why subsidize affluent people like Gephardt and me? Why not let us sink or swim on our own? If my house erodes away, it should be my tough luck. FEMA chief Witt at least attempted an answer: "The American people are pretty compassionate toward their neighbors."

Government flood insurance is so "compassionate" that the program didn't even raise my premiums when, just four years after I built my house, a two-day northeaster swept away my first floor. I could still use the place, since the kitchen and bedrooms were on upper floors, though some guests were unnerved when a wave sloshed through the bottom of the house. After the water receded, the government bought me a new first floor.

Federal flood insurance payments are like buying drunken drivers new cars after they wreck theirs. I never invited you taxpayers to my home. You shouldn't have to pay for my ocean view.

Actually, I don't have such a great view anymore. On New Year's Day, 1995, I got a call from a friend. "Happy New Year," he said. "Your house is gone." He'd seen it on the local news. (Or rather, he saw the houses that had been next to mine, and nothing but sand next to them.) The ocean had knocked down my government-approved flood-resistant pilings and eaten my house.

It was an upsetting loss for me, but financially I made out just fine. You paid for the house—and its contents. I'm not proud that I took your money, but if the government is foolish enough to offer me a special deal, I'd be foolish not to take it.

I could have rebuilt the beach house and possibly ripped you taxpayers off again, but I'd had enough. I sold the land. Now someone's built an even bigger house on my old property. Bet we'll soon have to pay for that one, too.

I interviewed beachfront homeowners in New Jersey, asking why they should be entitled to this brand of welfare. They got angry:

First Homeowner: We create a lot of employment here—look at the dishwashers and the chefs and the waitresses and the waiters.

Stossel: This is welfare for you rich people.

First Homeowner: I am not rich.

Stossel: People who are making $25,000 have to pay taxes...to protect you.

Second Homeowner: They've bailed out the S&Ls, and they help the farming people.

Stossel: So since there's welfare for all these other rich people, you should get some too?

Third Homeowner: Sound management is what it is. It's got nothing to do with welfare.

Sound management? It's never welfare if it goes to you.

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Farm supports are as destructive as the old welfare payments to poor people were. Just as addictive, too. Subsidies lead farmers to plant more crops, which lowers prices, making farmers even more dependent on handouts.

Feeding at the Federal Trough

Today's biggest welfare queens are probably farmers—once, in their glory days, the most self-sufficient of Americans.

When I make speeches about free markets at Farm Bureau conferences, farmers applaud enthusiastically. But despite their surface support for free markets, most of them operate in a market that's very expensive for all of us, receiving $200 billion in direct handouts this decade, plus another $200 billion in artificial price supports (which force us all to pay more for food).

Farm supports are as destructive as the old welfare payments to poor people were. Just as addictive, too. Subsidies are supposed to help farmers recover from low prices caused by overproduction, but the subsidies lead farmers to plant more crops, creating more overproduction, which lowers prices, making farmers even more dependent on handouts.

The programs wreck the lives of farmers in poor countries because they can't compete with subsidized American farmers (or with even more-subsidized European farmers). Hypocritical politicians blather constantly about helping the poor and demand more of your tax money for foreign aid. But they simultaneously give out farm subsidies, which rig the system so that all over the world poor farmers stay poor.

Why shovel all this money to American farmers?

Because we like farms. Farms are romantic. No one wants to lose the family farm. Of course, most handouts don't go to family farms. They end up going to big farm corporations, because the big, established companies are most skilled at using the system. *Fortune* 500 firms like Westvaco, Chevron, John Hancock Life Insurance, Du Pont, and Caterpillar each get hundreds of thousands of dollars in subsidies.

Another reason farmers get these ridiculous handouts is that they've become remarkably proficient at panhandling. Every state has a politically aggressive farm lobby, and every politician wants to stay on its good side. Watching the 2000 election's Iowa caucuses was nauseating. At Vice President Al Gore's rallies, they played country music while Gore regaled crowds with farm stories. "Every summer," said Gore, who grew up in a fancy Washington hotel, "we went back down to the farm. I was in the 4-H club."

Even so-called shrink-the-government Republicans will make government bigger for farmers. The candidate the press called the most "conservative," Alan Keyes, said farm supports are absolutely necessary: "It's a question of America's moral decency."

Oh, please. Most American farmers do just fine—better than most other Americans. Subsidies go to corn growers who earn more than $200,000 a year, even to "farmers" like my ABC colleague Sam Donaldson, who got thousands of dollars in wool and mohair payments because he and his wife raised sheep and goats on their New Mexico ranch. Donaldson calls the payments "a horrible mess" (he's sold the livestock and no longer collects subsidies), but he compares them to the home mortgage deduction, saying, "As long as the law is on the books, it's appropriate to take advantage of it." Rich people take extra advantage: From 1996 to 2000, David Rockefeller got $352,187; Ted Turner, $176,077; basketball star Scottie Pippen, $131,575.

Farmers argue, "We need subsidies—because the food supply is too important to be left to the uncertainties of free market competition." But farmers who grow beans, pears, and apples receive no government subsidies, and they thrive.

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Sen. Trent Lott wasn't even ashamed of the useless government contracts he brought to his home state of Mississippi. "Pork is in the eye of the beholder," he joked. "Where I'm from...[pork] is federal programs that go north of Memphis."

Free markets are best at producing ample supplies of everything. Notice any shortages of unsubsidized green beans, pears, and apples? Me neither.

Yes, some farmers have a tough time. Some will go broke and lose their farms. That's sad. But it's also sad when people at Woolworth's or TWA lose their jobs. Letting businesses fail is vital for the creative destruction that allows the market to work. Those who fail move on to jobs where their skills are put to better use. In the long run, it makes life better for the majority.

The Biggest Piggie?

When public interest groups compile lists of corporate welfare recipients, a company called Archer Daniels Midland (ADM) is usually at the top of the list. You may never have heard of ADM, because its name rarely appears on consumer products, but it's huge. Its products are in most processed foods.

ADM collects welfare because of two cleverly designed special deals. The first is the government's mandated minimum price for sugar. Because of the price supports, if a soft drink maker wants to buy sugar for its soda, it has to pay 22 cents a pound—more than twice the world price. So Coca-Cola (and almost everyone else) buys corn sweetener instead. Guess who makes corn sweetener? ADM, of course. Now guess who finances the groups that lobby to keep sugar prices high?

ADM's second federal feeding trough is the tax break on ethanol. Ethanol is a fuel additive made from corn, kind of like Hamburger Helper for gasoline, except that it's more expensive, so no one would buy it if government didn't give companies that use ethanol a special 52-cent-a-gallon tax break. That costs the treasury half a billion dollars a year. ADM produces half the ethanol made in America.

Why does ADM get these special deals? Bribery. OK, it's not technically bribery—that would be illegal. ADM just makes "contributions." Through his business and his family, former ADM Chairman Dwayne Andreas gave millions in campaign funds to both Mondale and Reagan, Dukakis and Bush, Dole and Clinton. President Nixon's secretary, Rosemary Woods, says Andreas himself brought $100,000 in cash to the White House. He even paid tuition for Vice President Hubert Humphrey's son. Republicans, Democrats—it doesn't matter. ADM just gives.

It also flies people around on its corporate jets. When we contacted Andreas to ask for an interview, he arranged to fly us to ADM's Decatur, Illinois, headquarters in one of ADM's jets. I've seen private jets before, but ADM's was a step above. A flight attendant served us excellent food on gold-plated china. The camera crew and I loved it. Bet the politicians like it too.

A limo took us to Dwayne Andreas' office. Once the cameras were rolling, I brought out the questions about "corporate welfare." I foolishly thought I could get him to admit he was a rich guy milking the system. I thought he'd at least act embarrassed about it. Fuggeddaboutit. He was unfazed.

Stossel: *Mother Jones* [magazine] pictured you as a pig. You're a pig feeding at the welfare trough.

Andreas: Why should I care?

Stossel: It doesn't bother you?

Andreas: Not a bit.

I still wonder why he granted the interview. I asked him about his bribes—I mean, contributions. For example, Andreas gave the Democrats a check for $100,000. A few days later, President Clinton ordered 10 percent of the country to use ethanol.

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Stossel: And the purpose of this money wasn't to influence the president?

Andreas: Certainly not.

Stossel: So why give him the money?

Andreas: Because somebody asked for it.

Because they asked for it? Give me a break.

In an ABC special I made called *Freeloaders*, economist Walter Williams aptly noted: "A panhandler is far more moral than corporate welfare queens....The panhandler doesn't enlist anyone to force you to give him money. He's coming up to you and saying, 'Will you help me out?' The farmers, when they want subsidies, they're not asking for a voluntary transaction. They go to a congressman and say, 'Could you take his money and give it to us?' That's immoral."

Andreas' attitude is rampant in many different areas of corporate America, and it's an ugly one. But there's always some legitimate-sounding justification. The politicians need your money for national security, research, job protection, or to "protect the food supply." After spending time on the golf course with lobbyists, politicians will find a way to justify almost anything. They justify giving subsidies to prosperous companies that sell goods overseas by saying that the resulting exports will be "good for America." They will be. But does Sunkist need taxpayer help to sell oranges? McDonald's to sell McNuggets to the Third World? Let them do their own marketing. My employer—Disney, which owns ABC—got tax money to create better fireworks at Disney World. Really.

Politicians will hand over millions of dollars to sports teams under the pretense that it will help create jobs and economic activity—ignoring the jobs and economic activity that would have resulted had the taxpayers been able to keep their millions to spend on what they chose. (See "If You Build It, They Will Leave," January.)

Some handouts allegedly keep certain industries alive in America—even though we'd all be better off just buying their products from overseas if foreign producers can make them cheaper. The shipping industry, for example, gets billions in handouts. Without them, American shipbuilders say, they can't compete with low-cost shipbuilders overseas. American politicians should say: "They're more efficient overseas? Fine! We'll buy their cheaper ships." And American taxpayers would be richer. But we don't do that—because the shipping industry has friends like former Senate Majority Leader Trent Lott (R-Miss.). He makes sure Congress keeps your money close to home—his home.

I interviewed Lott. Without moving the tripod, our camera could pan from his Mississippi home to the shipyard that got half a billion dollars of your money to build a ship the Defense Department never even requested. Lott didn't even seem ashamed of that. "Pork is in the eye of the beholder," he joked. "Where I'm from...[pork] is federal programs that go north of Memphis."

Isn't Your Home Your Castle?

Occasionally, politicians are so eager to help their rich friends that they'll take your home to do it. The legal doctrine of "eminent domain" (which means "superior ownership") allows government officials to take possession of your property if they decide they need it for the greater good. Traditionally this meant building highways, bridges, and parks, and eminent domain was used only in unusual situations.

But today government officials use eminent domain to help private companies—Kmart, Home Depot, baseball teams, shopping malls. Hurst, Texas, condemned 127 homes that stood in the way of a developer's plan to expand a mall. Toledo, Ohio, got a $28.8 million HUD loan to forcibly relocate the owners of 83 perfectly nice homes that were condemned to make way for a Jeep factory. A county in Kansas condemned property belonging to 150 families to make way for NASCAR's Kansas International Speedway.

Sometimes citizens fight back, and when they do they can win—even against a foe as big as Donald Trump and the Atlantic City politicians in his pocket. In the early 1990s, the billionaire already owned Trump Plaza, Trump Tower, Trump Parc, Trump International Hotel, Trump Palace, Trump World's Fair, and Trump Taj Mahal. But he wanted more. He wanted to expand one of his casinos in Atlantic City.

Vera Coking was in the way. The elderly widow had lived in a house in Atlantic City for more than 30 years, and she didn't want to move. Trump offered Coking $1 million if she'd sell. She said no.

This annoyed Trump. He told reporters her house was ugly, and it would be better if it were torn down to make room for a parking lot for limousines waiting outside his casino.

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Victories against handouts to the well-connected are possible. But if we truly believe that the press should "comfort the afflicted and afflict the comfortable," the media need to spend more time focused on the ugly realities of welfare for the rich.

I wouldn't think that was "public use," but before you could say "corporate welfare," New Jersey's Casino Reinvestment Development Authority filed a lawsuit in 1994 to "acquire" Coking's property. It told Coking she must vacate her home within 90 days or the sheriff would forcibly remove her.

Suddenly the $1 million offer was off the table. The authority said Coking's house was worth only $251,000—one-fifth what Trump paid for a smaller lot nearby.

It looked to me like the government was robbing Vera Coking to pay off Donald Trump. The government officials wouldn't talk to me about it, but Trump did.

Stossel: In the old days, big developers came in with thugs with clubs. Now you use lawyers. You go to court and you force people out.

Trump: Excuse me. Other people maybe use thugs today. I don't. I've done this very nicely. If I wanted to use thugs, we wouldn't have any problems. It would have been all taken care of many years ago. I don't do business that way. We have been so nice to this woman.

Trump said Coking turned down his offer because "her lawyer wants to get rich, and everybody wants to get rich off me."

Stossel: So don't pay it. Let them stay. Basic to freedom is that if you own something, it's yours. The government doesn't just come and take it away.

Trump: Do you want to live in a city where you can't build roads or highways or have access to hospitals? Condemnation is a necessary evil.

Stossel: But we're not talking about a hospital. This is a building a rich guy finds ugly.

Trump: You're talking about at the tip of this city, lies a little group of terrible, terrible tenements—just terrible stuff, tenement housing.

Stossel: So what?

Trump: So what?...Atlantic City does a lot less business, and senior citizens get a lot less money and a lot less taxes and a lot less this and that.

Sadly, claims that people will be deprived of "this and that" can now be used by politicians to condemn your house. It didn't seem right to Vera Coking. "This is America," she said. "My husband fought in the war and worked to make sure I would have a roof over my head, and they want to take it from me?"

Usually the Donald Trumps of the world and their partners in government get what they want. But Vera Coking was lucky enough to get media attention—and to have a public-interest law firm, the Institute for Justice, take her case to court. In 1998 a judge finally ruled against Trump and the government, finding that taking the property would benefit Trump, not the public. Vera Coking got to keep her home. She still lives there, surrounded by Trump's hotel.

Such victories against the awful advantages that government loves to grant to the wealthy and well-connected are possible. But to see more of them will require a great deal of diligence on the part of citizens—and the news media. If we want to live up to the old saw that the press should "comfort the afflicted and afflict the comfortable," the TV cameras need to spend more time focused on the ugly realities of welfare for the rich. ▮

John Stossel is co-anchor of ABC's 20/20 and the recipient of 19 Emmy Awards. This article is excerpted from Give Me a Break: How I Exposed Hucksters, Cheats, and Scam Artists and Became the Scourge of the Liberal Media, Copyright © 2004. Published by arrangement with HarperCollins Publishers.

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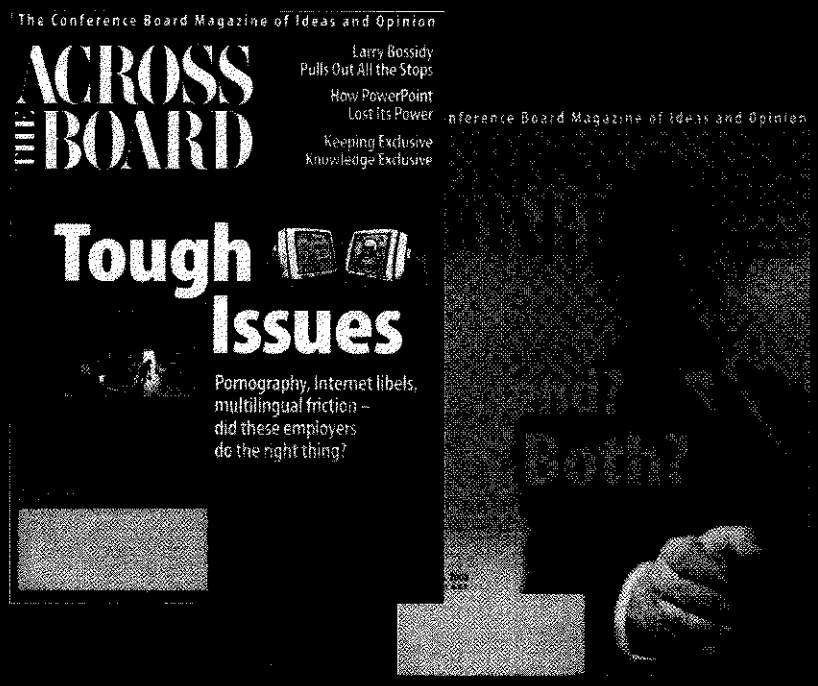
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Faith, Shame, and Insurgency

Life in occupied Iraq

Iraqis cheer U.S. Army soldier in the city of Najaf. Zuma Press

Steven Vincent

UNLESS YOU'RE A VIP who can fly directly into the Baghdad airport, the usual way to get to the city is from Amman, Jordan—a 600-mile, 12-hour-plus drive (depending on the vagaries of Jordanian customs officials) across barren terrain only a Bedouin could love. My Iraqi driver picked me up at my hotel at 1 a.m., and after interminable hours bouncing in a GMC Suburban along unmarked pavement lit by stars, we hit the border at dawn. By a neat bit of timing, the sun was just lifting over the horizon when we cleared the final checkpoint and, as I slipped a Nelson Riddle tape into the cassette player, we were off again, roaring across the Mesopotamian desert to the strains of "Route 66."

I'd come to Iraq to test my beliefs. Back in New York, I'd been a firm and vocal backer of the war, though not necessarily of the Bush administration. After witnessing firsthand the horrific events of 9/11, I felt the civilized nations of the world had to take on terrorism at its roots—roots that included the Middle East's legacy of poverty, hopelessness, and despotism, epitomized by, among other tyrants, Saddam Hussein. Saddam may or may not have contributed to the murder of 3,000 people in downtown Manhattan, but I believed a free and prosperous Iraq, spreading ripples of democracy and the rule of law from Damascus to Riyadh, was a key element in preventing similar attacks in America or elsewhere.

But a question had always nagged me: How could I truly endorse the war unless I actually *went* to Iraq? How did I know my assumptions were correct? And so last fall I

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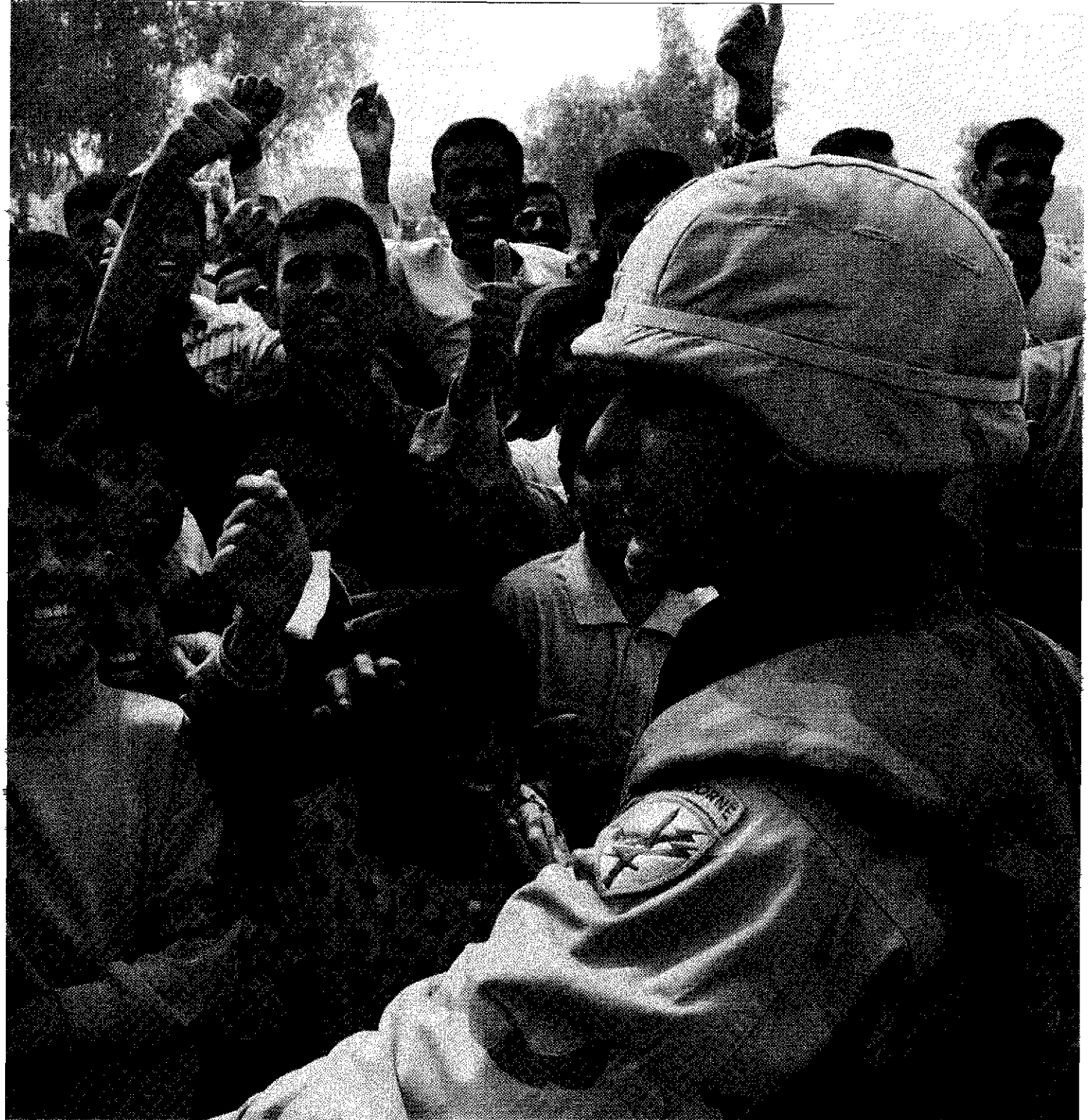

traveled to the cradle of uncivilization, staying in Baghdad from mid-September to late October, with a four-day trip to the southern city of Basra. Although my experiences were by no means exhaustive, I feel confident that they were intense and profound enough to offer a valid perspective on the state of Iraq today. I spoke to cab drivers, Islamic clerics, waiters, Western journalists, American and British soldiers, anti-war activists, human rights activists, Iraqi housewives, employed and unemployed academics, children, U.S. government officials—as close to a full panoply of current Baghdad life as I could. What I saw and heard surprised, delighted, and horrified me in ways I could never have predicted. I still support the war—even more so, in fact. But I'm less optimistic than I was on April 9, 2003, the day the statue of Saddam fell in downtown Baghdad, when, through my tears, I believed the good guys had won.

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"A lot of French journalists are shit," said an Iraqi sculptor. "They come here and talk against the U.S. in a stupid way. They don't care about the crimes of Saddam Hussein."

I realize no single account will sway someone as to whether the Iraq war was justified. Indeed, for many opponents of the war, the demise of Saddam Hussein and America's flawed attempts to establish democracy in that country are beside the point. But I wonder how they can assume that *their* suppositions are correct until they do what I did—go to Iraq and discover for themselves what the Iraqi people think and feel about Saddam and the U.S.

Taking the Pulse

My education in the realities of Iraq started early. At a truck stop near the "Sunni Triangle," the area west of Baghdad populated by foreign and Ba'athist guerilla fighters, we picked up an Iraqi doctor whose car had broken down. As we passed through the volatile towns of Ramadi and Fallujah, where booby traps and ambushes kill or wound American soldiers daily, the doctor pointed out the surrounding vegetation: verdant fields, hedges, palms, and even, he said, copses of birch trees. "To reward his followers," he explained, "Saddam diverted water from the Euphrates River to turn this area into a Garden of Eden." In doing so, however, the tyrant drained thousands of square miles of fertile wetlands in southern Iraq to punish the local "Marsh Arabs" who revolted against his regime after the first Gulf War. "In this way," the doctor concluded, "Saddam turned a desert into gardens and gardens into desert. He corrupted the very geography of Iraq."

Baghdad is an unlovely place. Thirty-five years of war, economic sanctions, and now looting have resulted in gutted buildings, pitted streets, and garbage-strewn fields where packs of dogs run through monotonous neighborhoods of plaster and poured concrete. The dominant color is brown: brown skin, brown buildings, and brown sky, the last from the smog that chokes the city like a five-pack-a-day habit. Add autumnal temperatures of 100 degrees or more, nightmarish traffic jams, and the ever-present threat of crime and suicide bombings, and you've got a place unlikely to top anyone's vacation list.

But if you're interested in hooking up with the Baghdad scene, there are two places to go. One is the Hewar Gallery, northwest of the city's center. As with Rick's American Café in *Casablanca,* everyone goes to Qasim Septi's combination art gallery, teahouse, and gossip nexus, where former Ba'ath Party members and former agents for the Mukhabarat, Saddam's secret police, hobnob with many of the same people they spied on for the old regime. (The unspoken rule regarding Saddam supporters: Unless they actively tortured or killed people, Iraqis forgive and forget.) At the Hewar I met what passes for Baghdad's bohemians: young, smart, male artists and writers, whose fluency in English makes them the go-to guys for foreign visitors seeking insights into Iraq. I wasn't sure what I'd hear when I asked them about the war.

"When I saw the statue of Saddam fall, I couldn't believe it; I thought I was dreaming," said sculptor Haider Wady. "We use to pray to live for just five minutes without Saddam Hussein. Now we have the rest of our lives!" Painter Mohammad Rasim remarked: "We were afraid the U.S. *wouldn't* invade. We knew there would be death, but we chose war to get rid of Saddam." Naseer Hasan, a poet and former member of Iraq's national chess team, put it in personal terms: "Throughout my nearly 40 years, I've seen only oppression, terror, and murder. But the removal of Saddam shows me that history can actually smile. Now, each morning I wake up, I find parts of my soul that I thought were

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dead are slowly coming back to life. April 9th was like a second birthday for me."

To be sure, not everyone at the Hewar felt reborn, especially among the customers over 40, who remembered the good old days of government-sponsored awards and competitions, lucrative commissions for portraits of Father Saddam, and extra pocket money from spying for the Mukhabarat. "Under Saddam, we could do any kind of art, as long as it wasn't political; things were much better then," Septi, the owner, said nostalgically. "Saddam was good for us; we lived well!" declared former Saddam portraitist Abdul Jabar. Some yearned for Saddam's authoritarian hand, especially when it came to the thieves, called in local slang "Ali Baba," who infested Iraq directly after the invasion. "Saddam good, Saddam strong—under Saddam, no Ali Baba," an art dealer griped in broken English.

The roughly 50/50 split between pro- and anti-Saddam voices at the Hewar is deceptive, however. Because of the despot's beneficence to artists—advocates of government arts funding, take note—support for the tyrant runs deep there. The same can't be said for the country as a whole. Among the Kurdish population in the north, for example, opinion is largely anti-Saddam, pro-U.S. In the south, the dominant Shi'a Muslims despise Saddam but are neutral or somewhat antagonistic toward the U.S. Only in the central Sunni Triangle do you find loyalty to Saddam mixed with deep opposition to America.

Baghdad is part of this area, but judging by countless conversations I had with residents, including more than 100 cab drivers, Saddam should not consider running for mayor anytime soon. I'd say at least 95 percent of Baghdadis hate him, with maybe 80 percent supporting the U.S. to various degrees. Anti-American sentiment is tricky to gauge: Iraqis are notoriously double-minded about everything—quite capable, for example, of praising the U.S. for removing Saddam one moment, then castigating it for supporting Israel the next. But an August opinion poll conducted by Zogby International for the American Enterprise Institute found that while 32 percent of Iraqis wanted coalition forces gone within six months, 34 percent wanted them to remain for a year, and an additional 25 percent said it should be two or more years.

Among those less friendly toward the U.S., there's a welter of views, ranging from pro-Saddam, pro-liberation (a tough one to parse) to vehement diatribes against George Bush that Michael Moore might envy. These sentiments were largely drowned out in December when the news that U.S. troops had captured Saddam sent Iraqis into the streets, singing, dancing, and shooting guns into the air. "Saddam is gone and took all his evils with him," said Rand Matti Petros, manager of a Baghdad Internet café, in an e-mail she sent me shortly after the tyrant was pulled out of his hole. "This surely must be the work of God."

Hamlets and Gertrudes

Besides the Hewar, the other must-see destination in Baghdad is the Shabander Teahouse. It's down on Mutanabi Street, in an old part of the city where buildings dating from the Ottoman Empire sag with age and neglect. On Fridays, Baghdad's booksellers crowd the muddy thoroughfare, hawking everything from Saddam's potboilers to English-Arabic dictionaries to American engineering manuals a quarter-century out of date. Friday was also the day my artist friends gathered in a dirty, open-air, turquoise-colored teahouse where, for 1,500 dinar (about 75 cents), you can purchase a glass of bitter lemon tea, rent a narghile (water pipe), and sit for hours. Like the Hewar, the Shabander is a social scene favored by Western journalists eager to interview Iraqi locals. I was one of the few American reporters this crew had met—and boy, did I get an earful.

"A lot of French journalists are shit," Wady, the sculptor, observed one afternoon as we shared a narghile filled with apple-flavored tobacco. "They come here and talk against the U.S. in a stupid way. They don't care about the crimes of Saddam Hussein." And it's not only the French, noted Esam Pasha, a painter and translator for the U.S. military: "European and Arab journalists talk to us, but they don't care about our happiness in being liberated. They only want us to make anti-American comments." Even a cabbie who took me to the Shabander one afternoon weighed in. "Al-Jazeera and Al-Arabia TV, no good," he said. "They only show pictures of bombings and killings of Americans—always how things are bad in Iraq, never how they are getting better."

Worse, I heard many stories at the Shabander about foreign correspondents staging news events to discredit the U.S. One young man introduced me to a Spanish photographer

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who, he later reported, had just finished posing an Iraqi woman in a nearby pile of rubble looking plaintively toward heaven, as if seeking deliverance from U.S. bombs. Rasim, the painter, claimed he witnessed Arab TV journalists pay idle Iraqis to light a car on fire and throw rocks to create an "anti-American" demonstration. "These journalists come here with their minds already made up," he groused. "They're not interested in anything that contradicts their anti-American viewpoint."

I asked Hasan, the poet, why, if the freeing of his country from Saddam Hussein was such a great event, so many people, both in Iraq and throughout the world, view it so negatively. "Think of *Hamlet*," he told me. "In the play, the young prince is haunted by his murdered father. At the same time, his mother, Gertrude, wants to forget the murder in order to get along with her life and encourages her son to do the same. But Hamlet can't forget; he won't forget. We see the same in the world: Hamlets who refuse to forget the crimes of Saddam, and Gertrudes who refuse to remember them."

In a small building north of the city center lie the final traces of many victims of those crimes. Their bodies are

Babylonian Hostility

In Iraq, the Jews—and anti-Semitism—are everywhere.

Nir Rosen

Last August, when Imam Mahdi al Jumeili of the small Hudheifa Mosque in Baghdad's Shurti neighborhood met three American officers to resolve a dispute over soldiers entering the grounds of his mosque, his first question was, "Are any of you Jews?" When he was satisfied that none was, he allowed the meeting to proceed. Prior to the Americans' arrival, he had voiced his views about them. "We are sure they came here to steal the country and protect Israel," he said, adding that "Judaism and Masonism are at war with Islam."

Such views are common in Iraq, where "al Yahud"—"the Jews"—are everywhere. Purportedly serious works about the Jewish threat, including Arabic editions of the notorious czarist forgery *The Protocols of the Elders of Zion*, are available in every book market. The widespread acceptance of outlandish fantasies about Jewish infiltration and manipulation demonstrates the degree to which Iraqis, whose views were shaped by years of authoritarian control, misunderstand and fear the outside world. The anti-Semitic paranoia is one measure of how difficult the transition to liberal democracy will be.

For a journalist, not a day goes by without mention of Jews and Israel. "We are Muslims!" a taxi driver declared proudly during an evening ride to a hotel. "And Jews come to our land?" When asked to whom he was referring, he said: "They are all Jews. The Americans are all Jews and mercenaries. We know their religion." Another taxi driver explained that "America and the Jews are one. We know this from their interests, their relationships, and America's defense of the Jews.... America and Jews are the same because they have the same goals and the same faith." An angry man in the market of Abu Ghraib, a town west of Baghdad, explained that "the Americans are Jews. Their work is Jewish. Nobody accepts them."

Last summer and fall, signs on the walls of the Abu Hanifa mosque warned Iraqis that Jews had come to the Ekal Hotel and planned to purchase land, just as they did in Palestine, to drive Iraqis out of their country. "Do not stab your fellow Iraqis in the heart" by selling land to the Jews, the signs exhorted. A visit to the Ekal Hotel proved that it was closed for renovations and had no guests.

In November, at the Rahman Mosque in Baghdad's Mansour district, faithful Shi'ites heard Sheikh Ali al Ibrahimi condemn a decision by the Iraqi Governing Council to let certain non-Iraqis obtain Iraqi citizenship. Ibrahimi warned that "if Jews reside in Iraq, then they will become Iraqi citizens, and they will own Iraq and we will be their guests."

The widespread Iraqi hostility toward Jews stands in contrast to a more ambivalent Muslim tradition. Although the Koran frequently condemns Jews, it mandates a modus vivendi with them, relegating them to an inferior but protected status. Historically the Muslim attitude toward Jews lacked the racial element of European anti-Semitism, holding that if a Jew converted he was to be treated like any other Muslim. But the conflict over Palestine, the creation of Israel and its defeat of Arabs and occupation of their land, intensified anti-Jewish feeling. Arab and Muslim authors began to adopt European racist and anti-Semitic theories about Jewish con-

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dust, their voices gone; now only documents exist to indicate their unpleasant fates. Imprisonment, exile, torture, rape, disfigurement, amputation, execution—the list of the horrors experienced by Iraqis at the hands of the Ba'athist regime goes on. I stood in an upstairs room of this small building, home to the National Iraqi Association of Human Rights, surrounded by thousands of battered folders, many of which were taken from the Ba'athist headquarters in Baghdad, each folder an individual story of misery, loss, and death. "We have 17 more rooms like this in our offices across Iraq," said Asad Abady, deputy director of the human rights group.

As Saddam's role model Josef Stalin once noted, "The death of one man is a tragedy, the death of millions a statistic." For that reason I hesitate now to recite the horrendous acts of Saddam: the hundreds of thousands killed in his wars; the thousands buried, sometimes alive, in mass graves; the barbaric tortures involving acid baths and wood chippers, electricity, power tools, and ravenous dogs. For what do they mean? Amnesty International reports how Ba'athist guards sliced chunks of flesh from the bodies of women prisoners and then force-fed them to the

Iraqi Jews in the tiny remaining Baghdad Jewish community. Mario Tama/Getty Images.

spiracies to explain Israel's existence, strength, and American support.

Those seeking to give these theories religious legitimacy have little trouble finding support in the Koran, a sprawling work with many passages that are open to interpretation. "Strongest among men in enmity to the believers wilt thou find the Jews and pagans," instructs verse 5:85, implying that Jews and pagans are of equal stature as enemies of Muslims and God. The Koran describes Jews as disobedient and treacherous unbelievers, rejecting God and His messengers. The Jewish worship of the golden calf after God made a covenant with them (2:92-3) and their recurring violations of pacts made with the Prophet Mohammed (8:56-8) show they are not to be trusted. According to the "cow" chapter (2:88), "God's curse is on them for their blasphemy. Little is it they believe." Other verses imply that Jews "shall be the companions of hell fire" (4:86), describe them as bragging about killing Jesus (4:157), and call their deeds "evil" (4:79–80). Thus the basis exists, for those who choose to use it, to promote the hostility and palpable fear of Jews that confront journalists in Iraq on a daily basis.

Iraqi newspapers have helped spread the panic about a Jewish invasion. Last summer, the independent Sunni *Al-Sa'ah* warned Iraqis to check Chinese-made appliances for concealed Stars of David because the Israelis would be surreptitiously selling their products in Iraq. The independent Iraqi daily *Al-Yawm Al-Aakher* reported that "the frantic campaign to resettle the Jews [in Iraq] has aroused the annoyance of Iraqis, particularly the clerics." On July 10, *Al-'Adala*, a newspaper published by the Supreme Council of the Islamic Revolution, warned that "a number of Jews are attempting to purchase factories in Baghdad." *Dar Al-Salam*, a newspaper owned by the Iraqi Islamic Party, reported on the same day that Mosul's association of clerics issued an edict prohibiting the sale of land to non-Iraqis lest it end up in the hands of Jews.

Such accounts are taken quite seriously. It seems nearly everyone in Baghdad has a friend or relative who has seen Jews buying land. ■

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captives. Abady told me of seeing buildings in northern Iraq filled with captive Kurdish women: A man could go to these buildings, fill out a form, and take a woman away for his own pleasure. The mind resists contemplating such deeds—and this resistance is the first step to denial, and then forgetfulness.

I had gone to the association precisely to know, as best I could, the evil of Saddam Hussein. There I found more than files and statistics. In Abady's office, I met a woman whose husband and son were executed by the regime (which diligently charged her for the bullets) and buried in graves she was forbidden to visit. I met with people who were among the first on the scene when mass graves were uncovered near Babylon. They described the skeletons of men, women, and children killed so abruptly that the jugs they had brought to fetch water from a nearby river that day were still clutched in their hands. "Not since the days of the Mongols and Tartars has there been such brutality," Abady said.

Evidence of Saddam's brutality is everywhere in Iraq. In the Shabandar, I talked with a man I'll call Ahmed. Once a high-ranking Shi'a cleric, he was arrested by the Ba'ath Party in the late 1990s for supposedly conspiring with anti-government Shi'a groups in Europe. Imprisoned for three years, he was repeatedly tortured. Guards tied his wrists behind his back and hung him from the ceiling, sometimes for days at a time. They starved him, beat him with heavy black cables, electrocuted him with wires connected to a hand-powered generator. When he finally regained his freedom, Ahmed told me, the right side of his body had lost most of its feeling, while an untreated disease he contracted in prison had withered his right leg to the size of his arm. "When I went into prison, I was a Muslim," he told me. "When I left, I was an atheist."

But the heart of Saddam's malevolence wasn't only in the awful statistics (5,000 dead in the 1988 poison gas attack on the Kurdish village of Halabja) or stories of individual atrocities (the 1999 murder of Mohammad al-Sadr, in which Ba'athists drove nails into the Shi'a cleric's head after raping his sister in front of him). It was also found in the endless stories of routine harassment, imprisonment, and fear expressed by everyone I talked to in Iraq. "Just a conversation like we're having now," Rasim, the painter, related one afternoon as we walked down Mutanabi Street, "could lead to the police picking me up and questioning me for hours about what we talked of."

Saddam was always watching: Wady described being interviewed by a European film crew interested in his sculpture. "A 'minder' from the regime stood behind the interviewer, next to the camera, and if they asked a sensitive question, she opened her eyes to warn me not to answer incorrectly or else she would report me," he said. "Of course, if I'd hesitated, or looked defiant, she would report *that*, too." Saddam was always listening: An Iraqi man told me how his son one day blurted out "I hate Saddam Hussein" among a group of friends and was arrested within hours, forcing the man to pay more than 1 million dinars in ransom. Sometimes what you personally had done wasn't even the issue. An Iraqi cab driver told me he spent two weeks in prison because his uncle was a communist. "I had to cover my ears because of the screams of the women being raped," he said.

The climate of terror and uncertainty that Saddam spread throughout the nation lingers today. "I wake up every morning fearing that I've been dreaming and that Saddam is still in power," said Rand Matti Petros, the Internet café manager. "My generation is lost," Pasha, the painter, said sadly. "Maybe in 20 to 30 years Iraqi children will live normal, happy lives outside the shadow of Saddam." Exacerbating the pain of many Iraqis is a keen awareness of the world's record of apathy toward their plight. "Where were the U.N. and our 'fellow Arabs' when we were suffering?" Hasan asked. "Where were the peace activists and leftists? How can they all accept the crimes of a dictator for so many years, then rise up in protest when a war begins to remove that dictator?"

The Spirit of Impotence

Yet the more I investigated Saddam's regime, the more I began to realize that the dictator had bequeathed something perhaps even more corrosive to the Iraqi people than repression, trauma, and fear: shame. This is one of the most sensitive parts of the nation's psyche, one that may prove the most problematic. On some level, many, if not most, Iraqis are ashamed that Saddam Hussein brutalized them—and even more ashamed that it took foreign troops to end his reign.

At a small social function one evening, I spoke to an

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"I hate Saddam! I hate Americans! I hate Iraqis—and I hate myself! I need a Valium!" cried one woman at a Baghdad art gallery. It was, I thought, an apt summation of the mentality shared by many Iraqis today.

Iraqi woman who expressed excitement over the fall of Saddam. Yet in almost the same breath, she declared, "I hate the Americans so much I fantasize about taking a gun and shooting a soldier." When asked how she expected Saddam to fall *without* the hated U.S. soldiers, she looked at me miserably. "I know," she said, "and you can't imagine how that humiliates me."

A waiter admonished me, as if I'd advised Rumsfeld and Bush: "You should have waited just a little longer. We would have risen up and overthrown him ourselves." When I asked why the Iraqi people hadn't toppled Saddam before, other Baghdadis claimed that the tyrant had support from "outside" forces—most notably, the Jews. Speaking of Iraq's disastrous invasion of Iran in 1980, the piano player in my hotel confided, "You know, of course, that the Jews manipulated Saddam into attacking Khomeini in order to keep the Arabs down—and Israel on top."

This sense of impotence and humiliation, exacerbated by every Humvee that rumbles down a Baghdad street and every Bradley Fighting Vehicle that ties up traffic, is the flip side to the pro-liberation sentiment I heard so often in Iraq. It helps explain the "thanks, America—now go home" syndrome observers frequently note. It also colors U.S. plans to hand over civil and military affairs to Iraqi officials as quickly as possible—giving them, the theory goes, a stake in their own future. But Iraqi attitudes may be more complicated than that.

Unlike the German acknowledgement of guilt for Hitler, Iraqis, I found, do not blame themselves for Saddam. To them, he is like a gunman who burst into their home, seized their family, and terrorized the neighbors—until the police finally stormed in and drove him out. Now, standing amid the ruins caused by the police raid, they say: "*We* weren't responsible for the maniac. *You* took it upon yourself to remove him. Thanks, but how soon are you going to repair our house?" They overlook the fact that from 1968 to 1980 Iraq lived happily under the control of the nationalist-socialist Ba'ath Party, reaping the benefits of a booming oil economy. (I heard numerous times about how "wonderful" Baghdad was in the 1970s.) Not until Saddam took full control of the nation in 1979 and launched the war on Iran—and then on the Kurds, and then on Kuwait, and then on the Shi'ites—did the Iraqis realize they were in the hands of a madman. By then it was too late.

"I hate Saddam! I hate Americans! I hate Iraqis—and I hate myself! I need a Valium!" cried one woman at the Hewar Gallery. It was, I thought, an apt summation of the mentality shared by many Iraqis today.

Despite Iraq's former claim to be the most "modern" culture in the Middle East—despite the presence today of high-tech gadgetry, Internet cafés, and multichannel cable TV in a Babel of languages—the country is in many ways reminiscent of America in the 1950s. In the absence of a civil rights mentality, ethnic, racial, and religious differences are seen as legitimate and natural grounds for discrimination. Ecological consciousness is minimal: Baghdad is a polluted, sprawling city where garbage cans are few and littering a way of life. Women generally live terribly restricted lives, wrapped in black head-to-foot sheets no matter the temperature, excluded from public activities, and confined mostly to the kitchen and the bedroom. (Although Iraqi women once had more extensive rights than women in many other Middle Eastern countries, they lost ground in the 1990s as Saddam increasingly adopted Islamic law to placate his restive Shi'a population. Today they are among the most

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oppressed women in the region, with illiteracy rates climbing above 75 percent.) Gay rights are unknown.

So is postmodernism. The philosophical tone among the secular educated is a kind of Eastern Europe–style existentialism, dominated by ideas of repression and political cynicism, with a direct connection to the absurd. In 1995, for example, Saddam's son Uday shot his uncle in the leg over a business dispute. To teach his kid a lesson, Saddam had him stripped of power and imprisoned—but then oversaw the creation of "spontaneous" protests demanding that he free Uday and reinstate him to his former position. "We were hauled out of school, given signs and told to shout out our love for Uday, whom, of course, we all hated," Pasha remembered. (Father Saddam, of course, relented and freed his reckless scion.) Today, a suicide car bombing becomes the occasion for shockingly nihilistic jokes about body parts and explosives. "You have to laugh about the absurdity of these things," Hasan said, "or you will go mad."

Faith in Iron-Fisted Kings

In other ways, Iraqis' consciousness goes back even further—to the iron-fisted kings of their Babylonian heritage. Many Iraqis told me that as much as they hated Saddam, they still needed a strongman like him to keep their "ungovernable nation"—which really isn't a nation but a colonialist expediency created by the British in 1922—from fracturing into disparate parts. Indeed, it is difficult to imagine the Kurds and Sunnis and Christians and Turkomans ever working together. Then there are the Shi'a Muslims, who comprise some 60 percent of the population and probably hold the future of Iraq in their Islamic hands. On top of all these differences is the terrorism, which, as I write this, seems on the verge of breaking out of control (although Saddam's capture may dampen the will of the insurgency).

The obstacles to democracy posed by these attitudes and social divisions were only heightened by errors the United States made in the immediate aftermath of the war, many Iraqis say. These included the failure to "shoot a few looters" to deter others, disbanding the Iraqi police and army, and stripping former Ba'athists of their jobs before securing order in the country (suddenly unemployed, many Ba'athists joined the fedayeen out of desperation, the theory goes). "It's been downhill since" is the gloomy assessment of Hassan Fattah, editor of the English-language newspaper *Iraq Today*. "Inevitably, the liberation became an occupation." An occupation, one should add, directed from a heavily defended compound in central Baghdad that is physically, politically, and psychically remote from the average Iraqi.

I don't mean to overstate the problems facing the U.S. in Iraq. Still, it bothers me to see supporters of the war assume that events are going better than the "biased," "liberal" media depict them. That may be true sometimes, but not always. Iraq is too complicated for such simple analysis—a fact I admit I had not sufficiently considered when I stood up to endorse the war. Now, when I'm asked if the U.S. can succeed, I can only join others in answering: "We must. The prospect of failure in Iraq is too catastrophic to conceive." It's not a policy so much as a statement of faith: that the center will hold, that democracy and freedom will triumph, that tyrants cannot long escape accountability and justice. But if it seems foolish, as it does to increasing numbers of people, to risk American lives and treasure on such an abstract concept, there are others who are risking their lives on something even less substantial: American public opinion.

At the former Iraqi Officers Club, now a base for the Florida National Guard, I interviewed Pasha and a number of other Iraqi men who serve as translators for the U.S. Army. It is an extremely hazardous job: More than 25 translators have died, many by assassination at the hands of fedayeen who consider them traitors. These linguists know they are marked for death, yet they continue to do the job. "We want to help rebuild Iraq," they explained.

I asked them if they ever thought about South Vietnam. When I was there in 1993, I met several Vietnamese who had worked for the American military, including a few translators. Left behind by the U.S., these men spent 10 years in "re-education camps" and were now pulling rickshaws in Saigon. Did the Iraqis worry that a similar fate might befall them?

"Oh no," they told me. "We have faith in the United States." Or, as another translator put it to me, in words that still make me shiver, "Our fates lie with you now. We know Americans will never abandon us." ▮

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Coercion vs. Consent

A **reason** debate on how to think about liberty

Richard A. Epstein, Randy Barnett, David Friedman, and James P. Pinkerton

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The following exchange got underway at the **reason** 35th anniversary banquet, which was held last November in Los Angeles. Keynote speaker Richard Epstein, the eminent legal theorist and author of the new *Skepticism and Freedom*, delivered a provocative talk about the foundations of libertarianism titled "The Ambiguities of Reason: Of Large and Small 'r's." For the spirited dialogue below, we adapted Epstein's comments and invited three responses, which are followed by a final comment by Epstein.

The Limits of Liberty

Why we need taxation and eminent domain

Richard A. Epstein

PERHAPS THE MOST fundamental question we face is how to think about liberty. Some libertarians stress the formal power of logic to resolve hard questions. They insist that all rights and duties flow from a necessary conception of individual autonomy or self-rule that allows all individuals to do whatever they wish with their own lives so long as they do not interfere with the like liberties of other individuals. No person may use force or deception against other people, either for his own advantage or for the advantage of third persons.

This moral imperative holds seemingly without regard for its social and economic consequences. Political organizations should adapt to this strong conception of rights and duties, the argument goes, and not yield to whim or fashion. Given this simple premise, individuals may use their own labor to acquire property, to exchange their labor or property with others, or to form complex business, social, and charitable organizations.

This strong intuitive conception of rights and duties tightly corresponds to our ordinary concept of right and wrong behavior. Most people do not seek to order their daily lives by discerning the origins of property in the mists of history; nor do they typically ponder the larger questions of public finance and political organization. But they are taught from birth to be neither bullies nor cheats. In dealing with life-size events, they adhere unswervingly to these simple basic principles. Why then resist their universal application? The content of the rules is clear, and any effort to switch to some calculus that weighs consequences case by case would at best yield indeterminate results, which would in turn heighten overall social insecurity. Better not to scratch beneath the surface. Even if these rules are not necessary truths, we should still treat them as such. Deductive principles order practical affairs well.

Unfortunately, this principle of personal guidance does not supply us with a comprehensive theory of social organization. First, there is the question of philosophical foundations. Can we really support any kind of political order that pays no conscious attention to the consequences it generates? On this point, the ostensibly deductive view is right to shun judging individual actions one case at a time. But this detached form of analysis really should be regarded as a form of closet consequentialism. Setting up public institutions to pass on all individual actions becomes so costly and intrusive that it flunks the standard of good government in just those consequentialist terms. But it is possible to moor this judgment of political structure in a keen appreciation of the mainsprings of human nature, which yields a decidedly mixed

Clockwise from top: Randy Barnett; David Friedman, photo by Charles Barry, Santa Clara University; James P. Pinkerton; Richard Epstein

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Richard A. Epstein: Two or more traders not only increase their own wealth and happiness but also expand the opportunities for trade and advancement for others.

picture of the best and worst in human behavior.

We start with the biological observation that no individual could survive in a world of scarce resources without a strong measure of self-interest, one that includes at the very least his own family and close associates. That self-interest can manifest itself in one of two ways when dealing with strangers; through either aggression or cooperation.

The overall social consequences of these two approaches are massively different. With force, one person wins while the other person loses. With cooperation, both persons win. This simple observation underlies the consequentialist explanation for the libertarian preference for agreement over coercion: Take that arrangement that leaves both parties better off than they are under the alternative legal order. Contracts result in joint improvements, such that the greater the ease of contracting, the greater the gains from cooperation. Coercion creates at least one loser for every winner, where the losses (e.g., death, rape, or theft) can be huge relative to the gains on any intuitive interpersonal comparison of utility. When the odds are right, any individual may find it in his interest to use force or deception, but from a social point of view this conduct merits strong condemnation. The basic libertarian imperatives are well-grounded in human nature.

Yet just how far does this insight go in a practical sense? To hang your hat on empirical regularities is to retreat from the language of absolutes and to invite exceptions to general rules. If our ultimate criterion asks what arrangement leaves all parties better off than they are under the next best alternative, there may be cases where the dominance of agreement over coercion should be displaced. In fact, there are: Some contracts are suspect, and some force is justified.

In dealing with ordinary contracts of sale or partnership, we tend to ignore the consequences of these joint efforts on third parties, which any comprehensive social theory should take into account. In most cases, happily, these external effects are positive. Two or more traders not only increase their own wealth and happiness but also expand the opportunities for trade and advancement for others. But a contract to kill a third person has the opposite effect. Indeed, it is precisely because contract yields gains from trade *to the participants only* that we worry about such agreements, now called conspiracies, because of the threat they pose to the basic rights of liberty and property of others. We are now faced with the difficult practical question of how to identify these rights-threatening arrangements, to punish them if they achieve their object, and, more important, to nip them in the bud.

Concerns about bad contracts are not limited to such situations. Contracts that seek to bribe individuals to violate previous agreements are similarly dangerous. More controversially, contracts that operate in restraint of trade are also possible candidates for special treatment once it is accepted that overall levels of social output are higher under competition than under monopoly. Exactly what should be done with these arrangements, assuming that they can be properly identified, is no easy task, given the political risk that perfectly sensible business arrangements will be attacked by government action—as is often the case when aggressive competition is branded "predatory" pricing, a dubious appeal to the libertarian norm against predation by the use of force.

Sometimes the strong libertarian synthesis breaks down in the opposite direction. The most conspicuous illustrations are condemnation and taxation, each of which

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contemplates the use of force against ordinary persons who have neither committed any wrong nor breached any promise. Yet it is in my view impossible to maintain any per se rejection of these two venerable if dangerous institutions, both of which are not only consistent with limited government but required by it.

The libertarian prohibition against force does not take into account the possibility that successful cooperation in key situations can be thwarted by individual holdouts. It will not be possible to build a railroad from point A to point B solely by getting the cooperation of 99 out of 100 private landowners along the way. The last one (indeed all) must be brought into line, and the way to do it is to compel the purchase by paying them the highest value of the land in any alternative use whose value is not dependent on the railroad that is about to be built. The public, including those whose property is condemned, gain the benefit of the railroad, but if compensation is correctly calculated—a big *if*—no individual suffers financial deprivation in the process. State coercion is used to create the win/win situations found in private contracts.

What works in condemnation cases helps explain taxation as well. The public enforcement of private rights and the creation of infrastructure through condemnation both need money that only compulsory exactions can supply. But once the coordination and holdout problems are overcome, much work has to be done to prevent massive abuses from working their way into the system. The flat tax is one sensible limitation on the power of taxation (others can be devised as well), for it allows state funding to vary in amount without picking on one segment of the population.

In sum, the central challenge to any political theory is to devise a set of institutions that first allows and then controls the use of coercion against individual citizens for their own benefit. In light of the justifications that have been put forward here, one could ask the question whether these concessions to state power amount to a backhanded capitulation to the modern welfare state, where any claim of the government to action in the public interest is sufficient to justify state intervention.

The short answer to that question is no. Indeed, there is a strong sense in which exactly the opposite happens. The traditional deductive form of libertarianism allows for state force to protect against aggression and fraud. The more complex version recognizes that state power is also appropriate to overcome holdout problems by the limited use of force. This two-tier inquiry clearly legitimates some forms of government action, but by the same token it makes the case *against* state intervention stronger in those settings where *none* of these justifications are available. It is easy to see why the state should keep its hands off the substantive terms of labor contracts in a deductive libertarian world. Hence we should get rid of minimum wage, antidiscrimination law, collective bargaining statutes, and mandatory pension and insurance regulation. Systems of price and rent control similarly go by the boards, as does the full range of tariffs, anti-dumping laws, and other impediments to international trade.

We arrive at the same results even after we recognize the legitimate state role in condemnation and taxation. Unregulated labor and product markets present no coordination and no monopoly problem. The basic libertarian position in favor of competitive markets is thus *strengthened* by allowing in principle a *broader* range of state justifications, none of which works in these cases. Removing these ordinary activities from the thrall of government regulation should increase the tax base and thus reduce the need for taxation, while simultaneously increasing the liberty and prosperity of all. The greater level of wealth should in turn reduce the calls for redistribution of wealth by state action, which in turn will reduce if not eliminate much of the welfare state. Government will still be larger than deductive libertarians might want, but it will be far smaller than the current bloated state.

Our limited use of coercion is done with the paradoxical intention of expanding the scope of individual freedom. It is always dangerous business, but it is only with a conscious awareness of how we must both use and limit government power that we shall find the intellectual tools to resist a descent into the all-powerful welfare state. The practical success of our endeavors depends on the ability to avoid not only the dangers of the all-powerful welfare state but also any categorical reluctance to use coercion to initiate forced exchanges that benefit us all. ▮

Richard A. Epstein (repstein@uchicago.edu), the James Parker Hall Distinguished Service Professor of Law at the University of Chicago, is the author, most recently, of Skepticism and Freedom: A Modern Case for Classical Liberalism (University of Chicago Press).

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The Lesser Evil

Sometimes the cure is worse than the disease.

Randy Barnett

For most of his career, Richard Epstein has been urging libertarians to expand the exceptions to the prohibition on the use of force beyond self-defense, detention of rights violators, and restitution to include using forced transfers to solve the economic problems of "holdouts" and "free riders." Holdouts would be addressed by eminent domain, free riders by taxation. He justifies both of these expansions on consequentialist grounds.

In his writings on contract law, however, Epstein has insisted that we do not want to make categorical exceptions to contractual enforcement that are so malleable that people can define themselves into them at will. He allows that some agreements can be voided, such as contracts signed under duress or as a result of material misrepresentation, but each justified exception amounts to a direct or indirect way to police force or fraud. As he has written: "The rules in question should not create artificial incentives for parties to lower the level of competence they bring into the marketplace. It is dangerous to allow people to plead their own incompetence in any transaction that they wish, with the benefit of hindsight, to repudiate."

I am not sure he has adequately appreciated how his instincts about contract law defenses apply as well to the categories of free riders and holdouts. It is far too easy to assert the existence of these barriers to trade, and far too difficult to defeat unjust expansions of the use of force when these exceptions are allowed, even if he is right that some such problems are otherwise insoluble. If so, then the cure could well be worse than the disease, and no amount of fancy economic analysis can establish otherwise. The consequence of rent-seeking—of interest groups using the coercion of the state to acquire unearned benefits for themselves—matters as much as the consequence of failing to build a road. Ask the residents of Poletown, whose Detroit neighborhood was destroyed by eminent domain to build a General Motors assembly plant. Ask the Atlantic City client of the Institute for Justice who successfully resisted the condemnation of her house to erect a parking lot for Trump Towers.

I know that Epstein's theory of the Takings Clause would restore the requirement of "public use" that would prevent using eminent domain to transfer rights from A to B, and I agree his approach is better than what we now have. But who's to say that these takings for the "public good," as opposed to public *use*, do not increase aggregate welfare? Who's to say that the welfare created by General Motors remaining in Detroit is not greater than the welfare of the families who must leave their homes? Who's to say that the parking lot to be used by thousands does not create greater welfare than a house used by just one woman?

Due to limitations on our knowledge, we have little choice but to rely on the principle of freedom of contract to answer these questions, however imperfectly. Unlike self-defense and restitution, exceptions for free riders and holdouts cannot be justified as the enforcement of the rights of others. Authorizing force in defense of individual rights is a necessary evil to address the problem of compliance when persons put their own interests ahead of respect for the rights of others—rights that are themselves necessary, on consequentialist grounds, to solve the pervasive problems of knowledge and interest. Caution should be our guide in pursuit of better consequences than properly defined individual rights provide.

Of course, to some extent this debate is moot. If we ever get to a libertarian world in which these are the only forms of coercion still existing beyond self-defense, etc., we will know a lot more about how liberty actually works and how to achieve it politically than we do now. We will be in a much better position to decide whether to abolish these practices along with all the other vestiges of the welfare state. I should live so long.

Why then debate them now? For the same reason Epstein has been harping on these points for decades. We debate the form of the ideal end stage as part of the debate over whether to take any further steps in its direction. Epstein clearly believes that a more sympathetic and defensible end state is one in which these additional exceptions for free riders and holdouts exist. On this, I have always had my doubts.

I do not think that Epstein has ever seriously addressed the alternative ways of solving these problems that have developed historically on the market, and which libertarians propose be extended to address the problem of so-called

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Randy Barnett: I see no reason to let economic theory trump liberal rights when experience shows these problems are so often solved by entrepreneurs without benefit of any special license to expropriate the property of others without their consent.

"public goods." "Public goods" are more a construct than an artifact of the world. It is often only a lack of imagination by academic economists that prevents them from seeing a solution. Indeed, one of the functions of entrepreneurs, as opposed to academics, is to figure out how to make a public good into an excludable private good.

Such techniques include creating the fencing technology needed to exclude free riders (think of the walls around movie screens and theater stages), tying nonexcludable goods to excludable goods, and such legal devices as conditioned contracts that go into legal effect only when a sufficient number of persons have agreed to pay for a particular project. Holdouts are dealt with by real estate developers assembling parcels of land in a variety of ways. I am not sure anyone can prove that these alternatives to takings and taxation will definitely increase aggregate social welfare. But I am certain no one can prove the opposite either.

This is not to deny that consequences matter, a point on which Epstein and I agree. Indeed, I think there are very few libertarians today for whom consequences are not ultimately the reason why they believe in liberty. The issue is always how best to achieve good consequences. As Epstein notes, making no exception to a general prohibition on the use of force is not an option. Self-defense is an exception, as is forcible compensation, and anyone who studies the common law of torts, contracts, and property knows that other exceptions are built right in to the doctrines that define the liberal conception of several property and freedom of contract.

The remaining dispute is over whether we should expand the exceptions to include holdouts and free riders simply *because* economic theory seems to suggest that only coercion can deal with them effectively. Epstein is convinced. I am not. I would prefer to jump off that bridge if and when we ever come to it, and only after the alternatives are thoroughly explored. I see no reason, whether tactical or principled, to let economic theory trump liberal rights when experience shows these problems are so often solved by entrepreneurs without benefit of any special license to expropriate the property of others without their consent.

In the end, we must never forget that permitting self-defense, restitution, and preventive actions against standing threats gives rise to the problems of power: enforcement error and abuse. Every additional exception legitimating the use of force, such as taxation and takings, further aggravates these serious social problems. The fact that we must take three steps down a dangerous road does not, by itself, justify taking two more, as Epstein seems to imply. Especially when, unlike force that responds to previous violations of rights, the problems of knowledge and interest surrounding these additional exceptions permit enormous opportunities for rent-seeking by those who can credibly claim to be increasing welfare by pursuing the "public good." ◻

Randy Barnett (rbarnett@bu.edu) is the Austin B. Fletcher Professor at Boston University School of Law, and the author of The Structure of Liberty: Justice and the Rule of Law (Oxford). His latest book is Restoring the Lost Constitution: The Presumption of Liberty (Princeton).

Swallowing the Rule

Epstein overestimates the power of his proposed limits on state action.

David Friedman

LIKE RICHARD EPSTEIN, I find versions of libertarianism that claim to deduce it by straightforward arguments from fundamental principles unsatisfactory. One reason is that libertarians,

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David Friedman: Eliminating the state eliminates the largest coordination problem of all: the problem of controlling the state. That is a more serious problem than how to build roads without the power of eminent domain.

like other people, have no convincing arguments to show that their principles are true. Another is that concepts such as rights, property, and coercion are very much more complicated, and less susceptible to simple rules and sharp definitions, then such versions of libertarianism generally suppose.

While we cannot logically derive our values, we have them. So do other people. Fortunately, human values vary a good deal less than one might suppose from reading political philosophers. Few egalitarians would prefer a society where everyone had a real income of $1,000 to one where incomes ranged from $90,000 to $100,000. Few Rawlsians would choose to improve the lot of the world's worst-off person by one dollar at the cost of massively reducing the welfare of everyone else in the world. And few libertarians, however hard-core in theory, would choose a perfectly free society of desperate poverty over one slightly less free and very much wealthier. Almost everyone, in my experience, values most of the same things, although not with identical weights. It is easy for both libertarians and socialists to claim to support their principles whatever the consequences—when each group believes the consequences would be, on very nearly all dimensions, the most attractive society the world has ever seen.

If most people have at least roughly similar values, and if libertarians are correct about what sort of society libertarianism would produce, we need not justify our own values in order to argue for libertarianism. All we need do is to show that a libertarian society would be more attractive, by widely shared standards, than any alternative—wealthier, wiser, freer, more just, better for poor as well as rich. That is, after all, what most libertarians believe.

Having adopted that strategy, I am sympathetic to Epstein's approach: Derive a legal and political system from the practical requirements for achieving the things humans want to achieve. My disagreement is with his conclusions.

To begin with, he is too pessimistic about the possibility of achieving important objectives without the state. Consider his claim that "the public enforcement of private rights and the creation of infrastructure through condemnation both need money that only compulsory exactions can supply."

The rights half of that claim assumes that private rights must be publicly enforced, despite a considerable number of societies where rights enforcement was produced privately. The infrastructure half assumes that the sort of coordination problems associated with building roads cannot be solved, imperfectly but adequately, by private mechanisms—despite real-world examples where they have been.

Even if we accept those assumptions, the conclusion still does not follow. To justify taxation we need the additional assumption that rights enforcement cannot be done by the state at a profit, despite historical examples of societies where the right to enforce the law and collect the resulting fines was a marketable asset, and that the government cannot charge enough for the use of its roads to compensate the owners whose land was condemned.

A second general problem with Epstein's argument is that he overestimates the ability of his proposed rules to constrain state action. He writes: "It is easy to see why the state should keep its hands off the substantive terms of labor contracts in a deductive libertarian world....Systems of price and rent control similarly go by the boards, as does the full range of tariffs, anti-dumping laws, and other impediments to international trade."

In a world with income taxes, the state cannot keep its

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hands off the substantive terms of labor contracts because it has to define which terms do or do not count as income. And it requires only a moderate degree of economic ingenuity to create coordination arguments for state-imposed restrictions on labor contracts designed to reduce the deadweight burden from taxation or solve subtle problems of adverse selection.

Tariffs are an even clearer case. The infant industry argument for tariffs—the idea that trade barriers are needed to help a potentially competitive industry get started—can be, and has been, recast as a coordination argument, in which one's firms activities in a new industry are alleged to produce external benefits for other firms in the industry. And it is straightforward to show that a country in a monopoly position as either a producer or consumer can use a tariff or export tax to extract monopoly returns from its trading partners.

There are many other examples of government policies that Epstein does not like but that could be defended on his principles, including government involvement in education, in research, and in the production and regulation of information. His exceptions swallow his rule, leaving us with everything up for grabs—and familiar public choice reasons to expect that far too much of it will be grabbed.

Epstein hopes to prevent this outcome by better institutional design. Perhaps that is the best we can do. But there are at least two other alternatives worth serious consideration.

The first is the extreme version of the libertarian state: no coercion beyond a monopoly on retaliatory force. Such a state will do less well for us than a state that initiates coercion in the rare circumstances where doing so produces large benefits. But it might do considerably better than the realistic alternative: Epstein's society as we can expect to see it actually implemented, in a world with plentiful arguments for extensive uses of state power and strong incentives to act on them.

The second alternative is to eliminate state coercion by eliminating the state. In that world, some coordination problems will go unsolved, making the result worse than the world that would be produced by a state run by perfectly wise and virtuous libertarians. But eliminating the state also eliminates the largest coordination problem of all: the problem of controlling the state. Given the record so far, that is a more serious problem than how to build roads without the power of eminent domain.

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Beyond Economics

Freedom is more than dollars and cents.

James P. Pinkerton

RICHARD EPSTEIN MAKES the useful point that libertarianism should be embedded in a practical philosophy, and he offers an elegant two-tier approach to deciding when and where to work toward the laudable goal of "expanding the scope of human freedom." I can't quibble with his approach to the issues that fall within his purview, but I also can't help but observe that the most important issues of the day seem to fall outside of that purview. Epstein's circumscribed approach to libertarian philosophy will, I am afraid, also circumscribe libertarianism's appeal and influence.

On the biggest issues of the day, Epstein is silent. I looked in vain for words such as *drugs, pollution, immigration, foreign policy, terror, Iraq,* or even *Bush*. That, to me, is the definition of a narrow piece. Not that there's anything wrong with that, but I believe libertarians have an important contribution to make on the hottest of the hot-button issues: drug laws, immigration controls, environmental regulation (including the reality that the United States is involved in a host of international agreements that affect America, no matter what we do), biotech and stem cell research, and, most of all, the "war on terror," which affects everything from civil liberties to federal spending to the ongoing war in Iraq.

By comparison, the issues Epstein wants to grapple with fall mostly within the realm of economics, including the minimum wage, antidiscrimination rules, collective bargaining statutes, mandatory pensions, insurance regulations, price and rent controls, and tariffs. Opposition to all these statist measures is firmly in the libertarian tradition; as Epstein says, it's all part of

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his plan to "reduce if not eliminate much of the welfare state."

Yet while it's fine to pound away on any and all of these issues one more time, I wonder what the ROII—Return on Intellectual Investment—will be. Most people, certainly most economists, accept the general proposition that markets work, and so the fight of the future is over applying Smithian wisdom in specific cases. The Institute for Justice, for example, recently filed suit against the Louisiana Horticulture Commission, which cartelizes florists. Such market-freeing cases are important, and Epsteinian thinking can help. But for the most part, the national agenda has shifted away from economics to other issues that seem more pressing. Indeed, the U.S. seems to have settled into a complacent Clinton-Bush consensus that accepts the idea that if the economy is booming, federal revenues ought to be spent—and then some. Today prospects for reducing, let alone eliminating, the welfare state seem poor.

At the same time, prospects for expanding the warfare state—which will, in turn, further expand the welfare state—seem excellent. In today's America, the spending of blood and treasure for foreign wars—even those, such as Iraq, that violate international law and are based on government deception—is practically unquestioned. A government arrogant enough to lie, big time, will never be a modest government. And then, of course, having made more enemies around the world through offensive wars, Washington must spend more on "defense," including homeland defense. Finally, after pledging a welfare state for Iraq (Washington is now a gold rush for lobbyists and contractors brandishing newfound expertise in anything "Middle Eastern"), it will be impossible not to keep and expand the welfare state here at home. Just days after the 1918 armistice that ended World War I, British Prime Minister David Lloyd-George promised "a fit country for heroes to live in." Britain's subsequent socialist bender proved that it's possible for a country to win the war and then lose the peace, and thus betray its heroes.

In today's America, war veterans will soon be granted larger benefits, but such expenditures will only be an overture to the lawsuits some of them are already filing against anyone with a deep pocket. When's the last time President Bush made a real push against the trial lawyers? He can't deal with tort reform or any domestic issue because he's too busy vindicating his foreign policy.

In addition, a government that's "strong" enough to rearrange the domestic affairs of other nations likely will feel equally confident about continuing to meddle in matters that should be private here at home, be they sexual, medical, or pharmacological. Randolph Bourne was so right: "War is the health of the state."

Some libertarians, of course, endorse the Bush Doctrine, explicitly with their words or implicitly with their silence. They argue, in effect, that the maintenance of freedom here requires us to force others to be free. I disagree with this neo-Rousseauean argument; I predict that if the Bush Doctrineers get their way, our future politics will go the cynical and perhaps *dirigiste* way of France, as every big-governmentalizing action is justified in the name of *la gloire*—oops, I mean "democracy."

By all means, let's have a debate about American imperialism. My fear is that if we don't raise our voices, then libertarianism, *a la* Epstein, could become just a synonym for economics. In which case, we might have prosperity, but we won't have peace, and we won't have freedom. ▪

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A Moderate Responds

Richard A. Epstein

Of the two basic points I made in my initial remarks, one has escaped serious criticism: that the traditional natural law justifications for freedom are not sufficient to sustain the case for individual liberty or for limited government. We are, as it were, all consequentialists now. The particular debates, therefore, are more focused. Randy Barnett and David Friedman claim that any system of forced exchanges is likely to produce more mischief than it eliminates. James Pinkerton argues that any libertarian theory that obsesses on economics runs the risk of losing the large struggles over peace and freedom. Both criticisms deserve responses.

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James P. Pinkerton: A government that's "strong" enough to rearrange the domestic affairs of other nations likely will feel equally confident about continuing to meddle in matters that should be private here at home, be they sexual, medical, or pharmacological.

Barnett thinks state coercion is not justified as a means to overcome major coordination problems because the risk of abuse is greater than the potential gains from the method. But his examples do not support that conclusion. Of course, the citizens of Poletown didn't want to not have their community ravaged for a pittance, nor did Donald Trump's neighbors want their homes converted to his parking lot. But it is wrong to look at this one feature of the eminent domain equation in isolation. Barnett's objections to eminent domain depend solely on the unknowable subjective value each person attaches to his or her possessions. But if that point is decisive, then eminent domain is also illegitimate when used to condemn land for national fortifications or public parks, when the public-use criterion cannot be contested at all.

Thus there are several real difficulties with Barnett's examples. First, the private use in both cases expands eminent domain power where it is least needed. Second, the puny compensation offered systematically ignored the subjective value of the private landowners and the dislocations the taking brought into their lives. Narrow the permissible set of purposes for takings and boost the compensation, and this takings problem will shrink, without using the meat cleaver of incommensurate subjective values to savage eminent domain.

Next Barnett claims we don't need eminent domain because private ingenuity can overcome holdout problems. But only sometimes. Private developers can use quiet tactics to assemble large parcels, but only because the law turns a blind eye to the low-level frauds that are used to mislead sellers about the buyer's intentions. But governments acting through public debates and appropriations can't use the same tactics to assemble land for highways. The history of oil and gas production, with the need to assemble and organize complex network industries, shows how holdout problems can stop development in its tracks. Indeed, the entire structure of property law rests on an implicit set of forced exchanges, which give first possessors, inventors, and writers priority over the rest of the world when astronomical transaction costs block voluntary negotiations. Too often private ingenuity blocks social coordination. It is much more sensible to stick with the more modest proposition that as transaction costs go down, the need for state intervention is reduced.

David Friedman's remarks are vulnerable to both these and other objections. The societies to which he refers but does not name are small communities, such as medieval Iceland, where tiny numbers and kinship relationships eased the path to social organization. Modern societies have bowed to the inevitability of some taxation, even if they have not done enough to constrain its use.

Again, it is not enough for Friedman to list the instances where state power fails. My own view gives no scope for tariffs because local protection is their raison d'être, notwithstanding all the palaver about infant industries. By contrast, the state sponsorship of scientific research has created public goods; before I ruled the National Science Foundation out of bounds, I would examine the evidence that advances in health have more than repaid their cost. Improve the system, yes; abolish it, no.

Friedman's pipe dream is that the alternative to limited government is no government at all. Not so. A large society with no central authority offers an open invitation to some sleazy individual to consolidate power in his own name. Constitutional government uses deliberation to

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Richard A. Epstein: A large society with no central authority offers an open invitation to some sleazy individual to consolidate power in his own name. This would promote totalitarian rule, not individual liberty.

expand the base of public support. Friedman's void at the center promotes totalitarian rule, not individual liberty.

Pinkerton charges me with an excessive preoccupation with economics. In part, I plead guilty to the charge that a short essay did not cover the waterfront and offer this belated response. First, on matters of value, nothing says that only markets matter. Indeed, as Barnett's comment and my reply to him indicate, one powerful reason for strong property rights is to allow people to pursue their subjective understanding of the good while respecting the like liberties of others. Nothing in my approach privileges certain kinds of preferences over others.

Let me turn next to Pinkerton's lists of specific issues. Pollution, how it should be attacked and when (at low levels) it should be allowed, lies at the heart of any law and economics program. The drug question also is amenable to that approach. Does drug use impose a peril on nonusers that requires some intervention before the fact? If so, what? Here's one three part program that might work: 1) abolish drug offenses, 2) remove all state subsidies for rehabilitation, and 3) refuse to reduce criminal responsibility by reason of voluntary drug use. As to terror, we all face the sticky tradeoff between liberty and security, where the only sensible program (even in Barnett's universe) asks whether additional precautions are more intrusive than beneficial. This is the heart of law and economics. Uncertainty makes utilitarians of us all.

Bush and Iraq are topics on which lawyers don't have much to say. I can predict what set of rules will help generate responsible political leaders, but I cannot make hard policy choices as a matter of general political theory. Just when should one nation intervene in the affairs of another, be it for humanitarian reasons or by way of anticipatory self-defense? Again, it is a matter of hard tradeoffs. But this is hardly an indictment of my approach. It only shows the great need for statecraft.

Nor does a focus on legal institutions trivialize issues such as character formation, family, or personal life. Here Pinkerton's criticism of me echoes that which John Stuart Mill made of Jeremy Bentham. Bentham was weak on personal virtues. There's a reason. Lawyers specialize in the question of how and when to use force. They deal with individuals as strangers, trading partners, family members, and litigants. Professionally, they don't have any inside track on matters of character, duty, and virtue, however vital.

Any libertarian who thinks you can promote virtue solely by abstaining from force and fraud is smoking some banned substance. Character helps people choose the proper course of conduct among those that are legal. Legal and political theory do themselves a disservice when they poach on questions of personal behavior. They are at their best when they deal with matters of constitutional structure and political power. It's nice, just this once, to occupy the odd position of being a moderate. ▮

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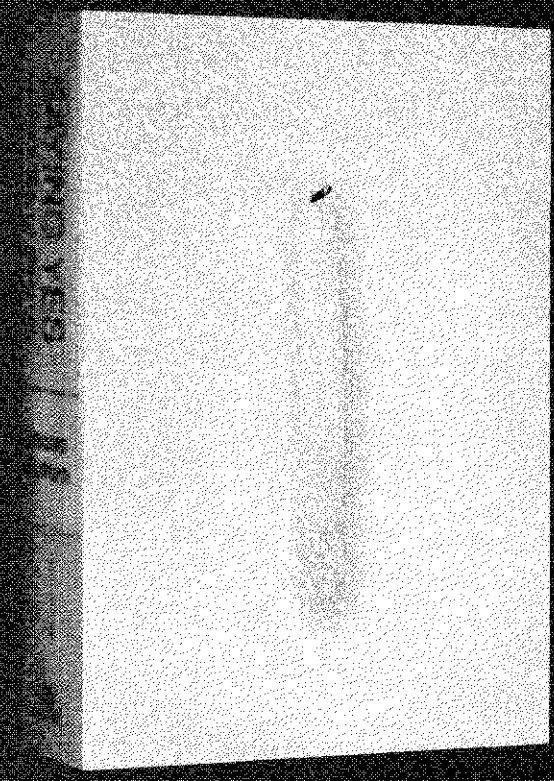

In ***Saying Yes***, Jacob Sullum of *Reason* argues that illegal drug use should be viewed the same way as drinking, with an emphasis on temperance rather than abstinence. Sullum rejects the idea that there is something inherently wrong with using chemicals to alter one's mood or mind. He uses compelling stories about real people to illustrate the point that there is such a thing as responsible drug use.

The drug war is based on the demonization of drugs and the people who use them. The assumption that certain drugs cannot be used responsibly is one of the biggest obstacles to drug policy reform. By refuting this myth, ***Saying Yes*** takes a bold and important step toward ending the nation's costly and devastating war on drugs.

"A welcome departure from the choreographed outrage of the War on Drugs."
—Washington Post Book World

"A highly effective debunking...well-written, persuasive, and important."
—National Review

"Deft, judicious, and thorough, Sullum's book is a healthy dose of sober talk in a debate dominated by yelping dopes."
—Mother Jones

Saying Yes

In bookstores everywhere
Visit www.reason.com/sayingyes/

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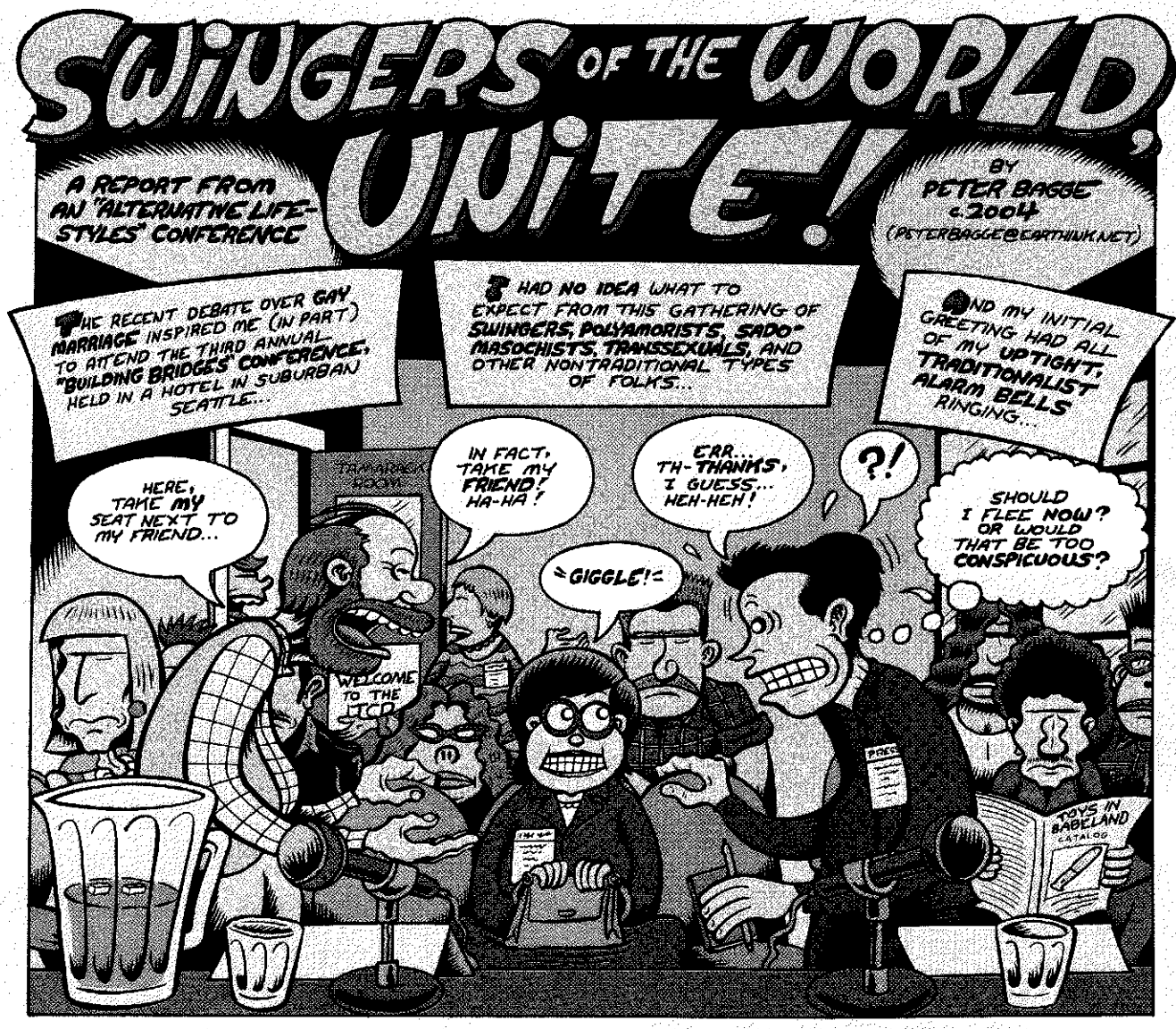
SWINGERS OF THE WORLD, UNITE!
A REPORT FROM AN "ALTERNATIVE LIFE-STYLES" CONFERENCE
BY PETER BAGGE c.2004
(PETERBAGGE@EARTHLINK.NET)
THE RECENT DEBATE OVER GAY MARRIAGE INSPIRED ME (IN PART) TO ATTEND THE THIRD ANNUAL "BUILDING BRIDGES" CONFERENCE, HELD IN A HOTEL IN SUBURBAN SEATTLE...
I HAD NO IDEA WHAT TO EXPECT FROM THIS GATHERING OF SWINGERS, POLYAMORISTS, SADO-MASOCHISTS, TRANSSEXUALS, AND OTHER NONTRADITIONAL TYPES OF FOLKS...
AND MY INITIAL GREETING HAD ALL OF MY UPTIGHT, TRADITIONALIST ALARM BELLS RINGING...
HERE, TAKE MY SEAT NEXT TO MY FRIEND...
IN FACT, TAKE MY FRIEND! HA-HA!
ERR... TH-THANKS, I GUESS... HEH-HEH!
?!
SHOULD I FLEE NOW? OR WOULD THAT BE TOO CONSPICUOUS?
TAMARACK ROOM
WELCOME TO THE TCP
≈GIGGLE!≈
PRESS
TOYS IN BABELAND CATALOG

MY AWKWARD REACTION—COUPLED WITH MY OVERSIZED PRESS BADGE—IMMEDIATELY SINGLED ME OUT AS AN OUTSIDER, AND FROM THAT POINT ON THE OTHER ATTENDEES WERE POLITE YET WARY TOWARDS ME...
WILL YOU BE ATTENDING OUR "SPANKS-GIVING" BALL?
(CAREFUL! HE'S WITH THE PRESS!)
("REASON" MAGAZINE—WHAT'S THAT?
LIBERTARIAN, I THINK...
IS THAT GOOD?)
SPANKSGIVING BALL
PRESS
DOES THAT MEAN I'M NOT INVITED?

HAVING MY NONPARTICIPATORY STATUS CONFIRMED MADE ME MORE AT EASE, THOUGH I STILL HAD MY SQUARENESS PUT TO THE TEST BY SUCH CASUAL UTTERANCES AS THESE:
HOW CAN I GET MEDICAL COVERAGE FOR MY SECOND HUSBAND?
IF I ADOPT MY LIVE-IN LOVERS WOULD I BE VIOLATING INCEST LAWS?
?!?
THE LAW AND YOU
PLOP!

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THE "INSTITUTE FOR 21ST CENTURY RELATIONSHIPS" IS HEADED BY JIM FLECKENSTEIN, AN ACTIVIST IN THE POLY-AMORY SCENE...
I "CAME OUT" AS A POLYAMORIST AFTER A TWENTY-THREE-YEAR MARRIAGE...
I'VE SINCE HAD TO DEAL WITH IRRATIONAL PREJUDICES FROM FRIENDS, FAMILY, AND CO-WORKERS, WHICH INSPIRED ME TO BECOME AN ACTIVIST...
AND YES, IT'S A VERY UPHILL BATTLE I'M FIGHTING.
POLYAMORISTS (OR "POLYS") BELIEVE IN OPEN, POLYGAMOUS SEXUAL RELATIONSHIPS, EITHER AS A DOMESTIC ARRANGEMENT OR IN THE FORM OF AN "OPEN MARRIAGE"...
SAY PAL, HOW ABOUT INTRODUCING ME TO YOUR FRIEND—
SHE HAPPENS TO BE MY OTHER "SIGNIFICANT OTHER," YOU CAD!
OOF!
POW!
POLYAMORY DIFFERS FROM SWINGING IN THAT IT'S NOT ABOUT CASUAL OR ANONYMOUS SEX, AND THAT A CERTAIN LEVEL OF COMMITMENT AND ADHERENCE TO "GROUND RULES" IS EXPECTED FROM ONE'S SEX PARTNERS.
STILL, THERE'S A CERTAIN AMOUNT OF SPILLOVER BETWEEN THE POLY AND SWINGER SCENES (OR "COMMUNITIES"), AS WELL AS WITH THE SM, BONDAGE AND BISEXUAL COMMUNITIES...
SAY, DIDN'T WE MEET AT "THE DEVIL'S DUNGEON" THE OTHER NIGHT?
(SHHHH! I DON'T WANT ANY OF MY BI-SEXUAL SWINGER FRIENDS TO KNOW I'M INTO S+M!)
WHILE SUCH "LIFESTYLE CHOICES" HAVE BECOME MORE TOLERATED BY SOCIETY OVERALL, THERE'S ALSO BEEN A SIMULTANEOUS AND ORGANIZED BACKLASH AGAINST THEM ON THE PART OF CONSERVATIVE RELIGIOUS GROUPS, WHO USE SUCH BACK DOOR MEANS AS THE SELECTIVE ENFORCEMENT OF LIQUOR LAWS AND ZONING RESTRICTIONS TO CRIMINALIZE THESE TYPES OF ACTIVITIES...
—YOU'RE UNDER ARREST!
...OOPS! SORRY. WE THOUGHT THERE WERE THREE OF YOU.
RAGE!
SOME ZONING STATUTES HAVE BECOME SO RESTRICTIVE THAT IN SOME PLACES IT'S NOW TECHNICALLY ILLEGAL FOR MARRIED COUPLES TO HAVE SEX IN A HOTEL WITH AN ON-SITE BAR! NEEDLESS TO SAY, THIS ASPECT OF THESE LAWS IS NEVER ENFORCED.
ALARMED BY THESE DEVELOPMENTS, FLECKENSTEIN AND OTHERS ORGANIZED THE FIRST "BUILDING BRIDGES" CONFERENCE AS A WAY TO SHARE INFORMATION WITH SIMILARLY AFFLICTED GROUPS...
Y'KNOW, AGNES, YOU'RE REALLY HARSHING MY BUZZ WITH THESE PETITIONS OF YOURS.
NO KIDDING! TALK ABOUT A BONER KILLER!
BUT...
THIS MISSION HAS BEEN A TOUGH ONE, THOUGH, SINCE MOST POLY/SWINGER/BDSM PRACTITIONERS PREFER TO REMAIN ANONYMOUS—EITHER FOR PRAGMATIC REASONS OR BECAUSE THEY GET OFF ON THE FORBIDDENNESS OF IT ALL.
REACHING OUT TO THE GAY COMMUNITY HAS ALSO BEEN DIFFICULT, SINCE THE TWO GROUPS OFTEN FIND THEMSELVES AT CROSS-PURPOSES.
...WE'RE STILL TRYING TO CONVINCE PEOPLE TO STOP PARADING AROUND NAKED AT GAY PRIDE EVENTS, AND YET YOU WANT US TO JOIN FORCES WITH THE LIKES OF YOU?
B-BUT, THE ZONING LAWS...
2.

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SM PRACTITIONER AND LONG-TIME SEXUAL FREEDOM ADVOCATE JUDY GUERIN IS WELL-VERSED WHEN IT COMES TO THESE INTER-COMMUNITY CONFLICTS...
I'M OPPOSED TO SAME-SEX MARRIAGE BECAUSE I'M OPPOSED TO MARRIAGE!
JUST AS WE'RE FINALLY GETTING THE STATE OUT OF OUR BEDROOMS, WHY WOULD I SUPPORT INVITING THEM BACK IN?
AT ONE FORUM, GUERIN AND CONSUMER RIGHTS ATTORNEY JIM TURNER OFFERED SOUND ADVICE ON GETTING THE MESSAGE OUT. ONE THING THEY BOTH STONGLY ADVISED AGAINST IS THE USE OF "IDENTITY POLITICS"...
GAY ACTIVISTS ARE FIGHTING TO BECOME A PROTECTED CLASS...
THEIR MESSAGE IS: "WE WERE BORN THIS WAY, BUT OTHERWISE WE'RE PERFECTLY NORMAL..."
THIS STRATEGY WOULD NEVER WORK FOR YOU, OBVIOUSLY.
THE THING IS, WE DON'T WANT TO BE "NORMAL." THAT'S OUR RIGHT, AND THAT'S WHY WE'RE HERE!
APPLAUSE
AT ANOTHER FORUM, ALLENA GABOSCH (DIRECTOR OF "THE WET SPOT: SEATTLE'S SEX-POSITIVE COMMUNITY CENTER") AND DEFENSE ATTORNEY ROBYN FRIEDMAN TALKED ABOUT THE "RULES" THAT SHOULD BE FOLLOWED IN SM RELATIONSHIPS, PARTICULARLY WHERE THE LAW IS CONCERNED.
ONE SAGE BIT OF ADVICE THEY OFFERED: IF THE COPS SHOW UP, DROP THE ACT!
?!?
I'M SORRY, OFFICER, BUT MY MASTER FORBIDS ME TO TALK TO ANYONE.
MS. GABOSCH WAS QUITE CANDID ABOUT HER OWN HISTORY AS SHE EXPLAINED WHY THESE SELF-IMPOSED "TERMS OF ENGAGEMENT" THAT SHE AND HER PARTNERS ADHERE TO CAN LITERALLY BE LIFESAVERS...
I'VE ALWAYS GOTTEN OFF ON ROUGH, VIOLENT SEX, AND THAT USED TO LEAD TO MY GETTING INVOLVED WITH SOME REAL ASSHOLES...
SO BEING PART OF A COMMUNITY OF RULE FOLLOWERS HELPS KEEP ME SAFE, WHILE STILL ENJOYING A SATISFYING SEX LIFE.
ANOTHER SPEAKER, THE WRITER AND SELF-DESCRIBED "SOCIAL ENZYME" DARKLADY (AKA THERESA REED) RECENTLY RAN FOR A SEAT IN OREGON'S STATE LEGISLATURE AS A LIBERTARIAN AND WOUND UP GARNERING 10% OF THE VOTE WITH HER "SEX POSITIVE" PLATFORM...
I EVEN BECAME THE TARGET OF A FEW ATTACK ADS FROM THE MAJOR PARTY CANDIDATES...
THAT ALONE MADE THE WHOLE EXPERIENCE WORTHWHILE!
DARKLADY RAISED MOST OF HER CAMPAIGN FUNDS BY HOSTING SEVERAL "MASTURBATE-ATHONS," WHICH WERE EXACTLY WHAT THE NAME IMPLIES, AND WHICH WERE SO SUCCESSFUL THAT SHE'D URGE OTHER L.P. CANDIDATES TO FOLLOW HER EXAMPLE...
OTHER THIRD PARTIES COULD ALSO HOST JERK-OFF FUNDRAISERS, COULDN'T THEY?
THEY COULD, BUT I DOUBT THEY WOULD...
I CONSIDERED RUNNING AS A GREEN AT FIRST, BUT THOSE TREE-HUGGERS ARE EVEN MORE UPTIGHT THAN THE GOP...
—OOH, LOOK! FREE COOKIES!
COMPLIMENTARY BOX LUNCHES (HAM + CHEESE!)
3.

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THERE WERE SEVERAL SPEAKERS AT THIS CONFERENCE WHO REALLY PUT ME OFF, HOWEVER, SUCH AS THE PROPONENTS OF THESE NEW "HOT TUB" RELIGIONS, WHO LIKE TO ATTACH SOME MUDDLED SPIRITUAL SIGNIFICANCE TO THEIR ORGIES...

...AT WHICH POINT WE USUALLY BREAK UP INTO GROUPS OF FOUR...
—AND I MUST STRESS THAT NUDITY IS OPTIONAL...
OPTIONAL, YET MUCH PREFERRED. HEH-HEH!
=CHUCKLE!=
SACRED SEXUALITY

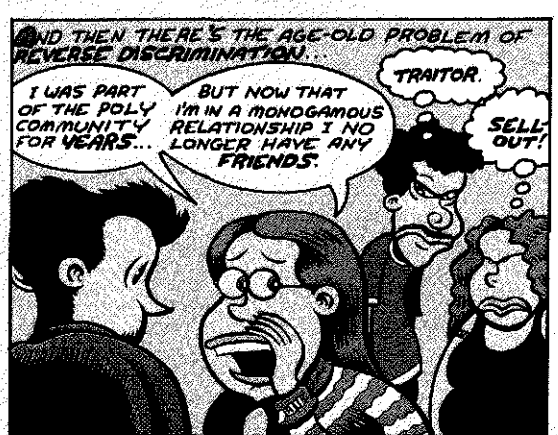
NOT THAT THESE FOLKS AREN'T FAR PREFERABLE TO ANY GROUP OF SEX-HATING BIBLE-THUMPERS, BUT THESE "SENSUAL SANTAS" STILL GAVE ME THE CREEPS!

I ALSO WAS SURPRISED BY THE SIZE OF THE PRESS CORPS AT THIS EVENT, WHICH CONSISTED SOLELY OF MYSELF AND A CAMERA CREW FROM THE DISCOVERY CHANNEL (?!), DESPERATE FOR VISUALS, THE LATTER CONVINCED A THREESOME OF HALFWAY-DECENT-LOOKING SWINGERS TO PUT ON A DISPLAY WHILE I TRIED TO "UNWIND" AT THE HOTEL BAR...

PLUS I OFTEN OVERHEARD POLYS MAKE REFERENCE TO THEIR "PRIMARY" MATES, AS OPPOSED TO THEIR "SECONDARY"—OR EVEN "TERTIARY"—MATES. SO MUCH FOR THE CONCEPT OF HAVING MULTIPLE "SIGNIFICANT OTHERS"...

CAN YOU IMAGINE BEING SOMEONE'S THIRD-STRING BEDROOM BENCHWARMER? HOW HUMILIATING!

AND THEN THERE'S THE AGE-OLD PROBLEM OF REVERSE DISCRIMINATION...


I WAS PART OF THE POLY COMMUNITY FOR YEARS...
BUT NOW THAT I'M IN A MONOGAMOUS RELATIONSHIP I NO LONGER HAVE ANY FRIENDS.
TRAITOR.
SELL-OUT!

YET JUST WHEN THESE PANEL DISCUSSIONS ON "HOW TO DEAL WITH JEALOUSY" AND "WHAT DO WE TELL THE CHILDREN?" HAD ME WONDERING WHY ANYONE WOULD WANT TO EVEN BOTHER WITH THESE CONVOLUTED "LIFESTYLES", I'D SUDDENLY REMEMBER THAT TRADITIONAL "STRAIGHT" COUPLES HARDLY HAVE A MONOPOLY ON HAPPINESS AND FUNCTIONALITY EITHER...

WHAT TH..? A "SWINGER'S CONVENTION"? WHY, THAT'S DISGUSTING!
I BET YOU WISH YOU COULD JOIN THEM, YOU PIG...
AND YOU KIDS GET IN THE CAR NOW, BEFORE I BEAT THE SNOT OUT OF YOU!
YEAH! I'M SICK OF GOD!
AND I WANNA WEAR MAKE UP!
I'M HERE AT "SWING CON '04" IN VEGAS...
WHY DO WE HAVE TO GO TO CHURCH AND DAD DOESN'T?
LORD OF THE RINGS
I HATE THIS FAMILY!
I HATE YOU!

JUST LOOK AT HOW MANY MARRIAGE COUNSELORS AND DIVORCE LAWYERS THERE ARE IN THIS COUNTRY! LET'S FACE IT: WE'RE ALL A MESS!

SPEAKING OF WHICH, ONE LAWYER WHO HELD A Q+A ON "THE LEGAL ALTERNATIVES TO MARRIAGE" MADE A PARTICULARLY PROFOUND POINT...

THE SO-CALLED "MORAL MAJORITY" NOW REPRESENTS A MINORITY, IN THAT TRADITIONAL NUCLEAR FAMILIES ACCOUNT FOR ONLY ONE-FOURTH OF ALL U.S. HOUSEHOLDS...
SO TO CALL OUR LIFESTYLES "ALTERNATIVE" IS A MISNOMER, AND WE NEED TO MAKE OUR LAWMAKERS AWARE OF THAT FACT!
END!

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Blood Money

Gettysburg's status as a national symbol is inseparable from its commercial success.

Damon W. Root

Gettysburg: Memory, Market, and an American Shrine, by Jim Weeks, Princeton: Princeton University Press, 288 pages, $29.95

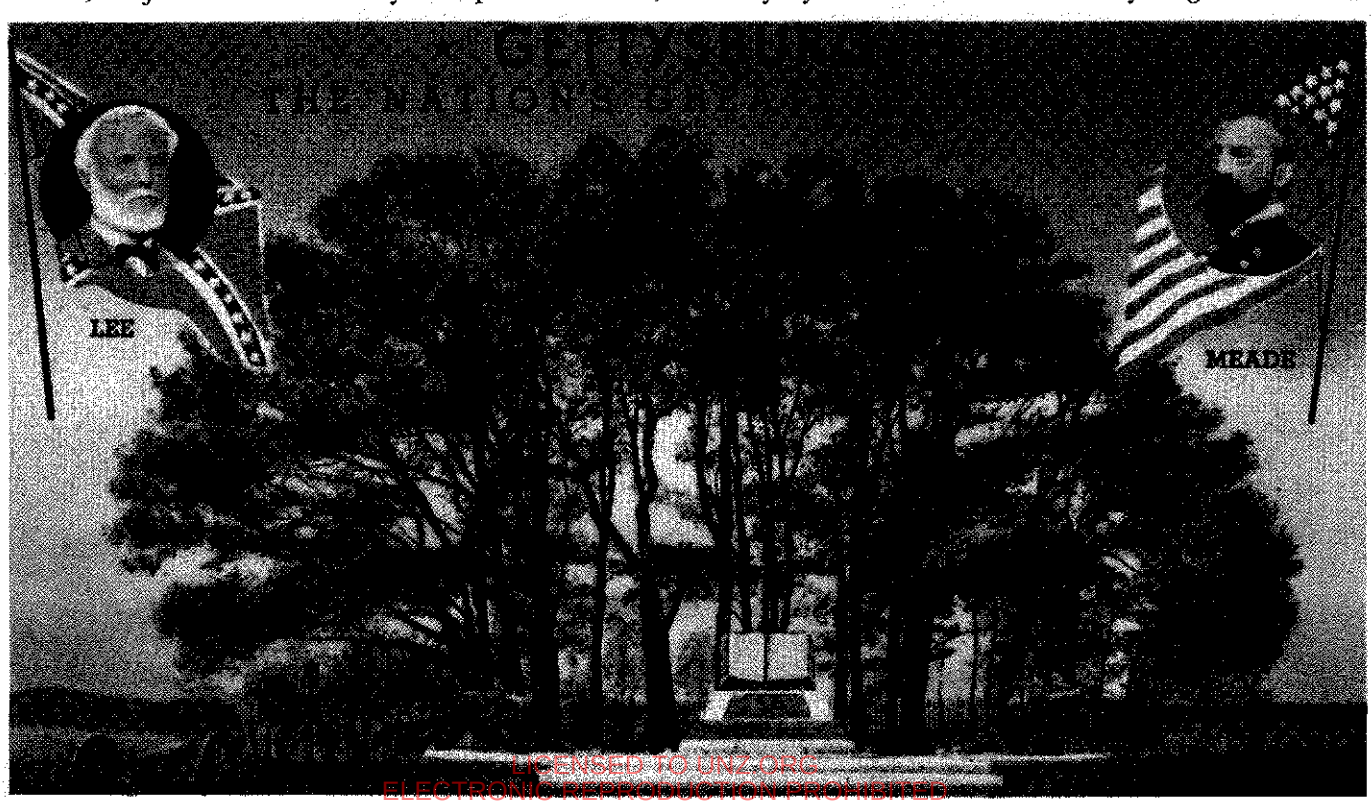
In July 1863, the Army of Northern Virginia under Gen. Robert E. Lee and the Army of the Potomac under Gen. George G. Meade met in battle in and around the quiet town of Gettysburg, Pennsylvania. More than 5,000 men were killed, some 10,000 went missing, and more than 27,000 were wounded. On the third day of fighting, Union forces decimated a Confederate charge led by Maj. Gen. George Pickett.

The Union victory halted Lee's second invasion of the North, severely weakened his army, and helped turn the tide of the war. By November 19, when Abraham Lincoln gave his most famous speech, entrepreneurs, promoters, and journalists had already declared the adjacent battlefield one of America's most hallowed places.

Today more than 2 million people visit Gettysburg each year, and the number of books on the subject dwarfs the number on any other Civil War topic. Millions watch movies and documentaries about the battle; hundreds of Web sites and e-mail lists facilitate discussion and debate; and tens of thousands of Gettysburg re-enactors take to the field annually in period uniforms, outfitted with expensive, historically accurate equipment. Devotees of the battle can buy recipe books and board games, take guided tours and ghost walks, stroll through the National Civil War Wax Museum in Gettysburg, even try to contact fallen heroes in a séance.

A combination of popular culture, technology, and desire has transformed a site of horrific carnage into one of the nation's biggest attractions, one that a motley mix of businesses, government officials, civic groups, preservationists, and everyday tourists has shaped and sold as "the most American place in America." Jim Weeks, a professor of American history at Pennsylvania State University and scholar in residence at the Pennsylvania Historical and Museum Commission, has written a fascinating, though flawed, account of this ongoing commercial and cultural phenomenon. "Gettysburg did not emerge as a shrine simply by popular will," Weeks writes in *Gettysburg: Memory, Market, and an American Shrine*. "Rather, a commercial web often intertwined with ritualistic activity packaged it for a consuming public and continually repackaged it for new generations."

The blood had barely dried when humanitarian groups, distraught relatives, and large numbers of wealthy spectators descended on the smoldering aftermath. Quick to meet the commercial challenges posed by this influx, intrepid locals sprang into action. Hacks offered guided rides, property owners preserved battle damage for display, and relic hunters hawked everything from bones



Gettysburg (cover detail)

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to bullets. Genteel shoppers, many of whom had never visited the battlefield, soon filled their parlors with a variety of Gettysburg-inspired products, including maps, photographs, sheet music, and poetry. Such items encouraged meaningful reflection on the Union victory; they also provided hours of entertainment and diversion.

Remarkably, most of these travelers and shoppers viewed their consumption as an escape from the commercial world, rather than participation in it. Much the same happens today when self-styled ecotourists and heritage buffs hotly deny that commerce has anything to do with *their* hobbies, all while wearing or carrying thousands of dollars in clothing and gear. Collectors of Gettysburg heirlooms regularly part with hefty sums to acquire historic items, just as bibliophiles buy rare first editions, sports fans bid on home run baseballs, food lovers travel across continents to dine at acclaimed restaurants, and art lovers tour the world's galleries. All of these consumers find satisfaction and meaning in the things they buy. Many of them doubtless regard their own activities as culturally enlightened and others' as shallow consumerism.

Sadly, Weeks reveals a similar elitism. He dismisses much of today's commercial culture as "further[ing] social fracturing by herding consumers." This view, usually associated with liberal elites, has its fans on the right as well. We're so busy renting sensational junk from Blockbuster, claim social conservatives, that we neglect God, country, and family. Or, say the liberals, we waste our money on video games and trashy novels while the fine arts totter on the brink of extinction. Both sides claim the marketplace debases "authentic" culture. Their complaint, moreover, is not just that we have bad taste but that our bad taste hurts society. The real disagreement, then, has nothing to do with whether commerce is a bad thing. Both sides clearly embrace commercial activity when it suits their agendas and interests. The fight is over what we "should" consume and why.

Thanks to spectacular advances in technology and communication, plus rising wages and increased leisure hours, great numbers of Americans joined this cultural debate at the turn of the 20th century. The railroads ushered in a new era of mass culture, allowing millions of working- and middle-class citizens to travel for pleasure for the first time, visiting such places as amusement parks, museums of natural history, and even rural cemeteries. These new visitors often began by putting the landscape itself to new use. Gettysburg, with its wide avenues and lovely vistas, made an ideal setting for picnics, sporting matches, and other less refined endeavors.

Not surprisingly, many critics chafed at this populist behavior and attempted to regulate it through a variety of blue laws, fees, and restrictions. Without genteel restraint, cultural elites felt, the pursuit of happiness was getting quite out of control. Weeks quotes one turn-of-the-century scold who worried that people had become "restless unless they are being continually saturated with abnormal and unwholesome pleasures, luxuries and unnatural excitement."

Weeks echoes such views when criticizing today's "heritage tourists," a group that includes most re-enactors and many history buffs and whose primary interest lies in experiencing an "authentic" version of the past. The push for heritage and historical re-creation stretches back at least as far as the New Deal. "The task," said Verne Chatelain, first director of the U.S. Park Service's historical division, is "to re-create for the average citizen some of the color, pageantry, and dignity of our national past." In 1933 the Park Service assumed control of Gettysburg National Military Park from the War Department, which had overseen the park since 1895.

The Music Never Stopped

Recordings depend on music, not vice versa.

Brian Doherty

When I was young, I thought the music I heard on the radio was coming from live bands performing in the studios as I listened. I imagined pop groups frantically packing up to make room for the next one, then dashing across town to perform their new hit on another station.

I can't explain why I held this weird belief, especially since I knew that records existed. What I didn't know is that my delusional world was the dream of a tough union leader in the first half of the 20th century, James Caesar Petrillo of the American Federation of Musicians (AFM). He saw that recorded music, and the broadcasting of that music on radio and jukeboxes, was a threat to his boys' jobs (and his).

AFM strikes brought the recording of new music to a halt in 1943 and 1948, but when the union tried again in 1958 it just didn't work. Live musicians' cultural and political influence had waned too much, even »

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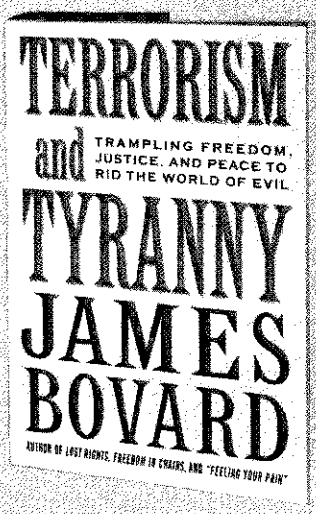
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Free Minds and Free Markets

By the 1970s, the Park Service had removed many monuments and avenues and erected a number of 1863-style buildings to give Gettysburg a more "authentic" appearance. Weeks deflates this trend with several incisive points, best exemplified by the observation that "authenticity" requires a Disney-like facade that hides such "eyesores" as garbage dumps and power lines. But his main arguments against the current phase of tourism are surprisingly simplistic. At one point, for example, he writes that "heritage gave tourists the impression it had liberated history from the shackles of intellectual labor." Yet just five pages later he complains that a driving force behind heritage is "the insatiable demand of the increasingly well-versed devotee." So which are they, idiots or geeks?

Weeks ultimately sees Gettysburg's commercial history through the prism of the "decline of cultural authority and the increasing isolation of the individual." He believes that "in spite of unprecedented abundance, Americans feel more isolated, harried, and bewildered in an alien new world."

Weeks complains that the Internet fosters social fragmentation and alienation. Yet the Web allows people with similar interests (such as a fascination with the military tactics used at Gettysburg) to interact relatively freely, share ideas, and build friendships, even though they are often from widely divergent locations and backgrounds. As Weeks grudgingly relates, tens of thousands of niche consumers, interested in everything from the geography of Little Round Top to eating period food, travel to Gettysburg each year for conferences, conventions, and festivals. These men,

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women, and children enjoy themselves while helping to define and maintain a place they love.

But Weeks wonders, "Is what this select group wants what the nation needs?" Without any guidance from cultural authorities, people have "voted for authenticity with their wallets." Who exactly should our missing cultural arbiters be? Do we need to regulate the heritage market by law, develop strict standards, or perhaps establish new federal guidelines? Weeks doesn't say.

He does, however, make the surprising claim that "by 2000 Gettysburg was a less-democratic shrine than it had been a century earlier." Could that possibly be true? By his own count, attendance is up since the turn of the century. Millions continue to visit the same battlefield their forbears did, even with countless other attractions competing for their attention and dollars. And what about all those people who decide to bypass Gettysburg entirely, opting instead to visit someplace they find more appealing or rewarding? Aren't their decisions democratic? Weeks seems to equate democracy with limited options and strong gatekeepers. But that combination sounds like something else entirely.

Nationalists might not like to hear it, but the shrine that prompts so much flag waving and solemn devotion is also a major moneymaker.

Weeks also evinces a remarkable nostalgia for the family dynamics of the mid-century road trip. "Gone were the days," he writes, "where parents connected children to pride in an exceptional nation." That particular quote follows one father's anecdote, relayed in an online discussion in 2000, about how his young son enjoyed playing on an artillery line with a group of re-enactors when the two of them visited the park. In other words, Weeks relates how a parent takes his child to see a historical attraction, the kid learns something about the past from some heritage types, and everybody has a good time—precisely the sort of activity he then claims is "gone."

Weeks even uses tourism to analyze the American family. He claims, for example, that as tourists and consumers, baby boomers now engage in "less compromise among family members than found in earlier generations." Rather than piling the kids in the car to see the country, they are recklessly seeking self-gratification, even taking individual vacations. Yet elsewhere Weeks notes that among earlier generations of tourists, women "had traditionally either tagged along with their husbands or acted as responsible mothers." Now more women enjoy sites such as Gettysburg on their own terms. Weeks thus seems to suggest that when a woman follows her husband's wishes and sacrifices her own desires it is a key indicator that "compromise" is alive and well in the American family.

Despite such shortcomings, and despite his obvious distaste for much of today's commercial culture, Weeks makes a convincing case that Gettysburg owes its special status to the marketplace. Nationalists might not like to hear it, but the shrine that prompts so much flag waving and solemn devotion is also a major moneymaker. PBS viewers, enchanted by the epic struggle portrayed in Ken Burns' *Civil War* documentary, might also want to reflect on the assorted capitalists that kept the shrine in business in the dark days before public TV. It takes elitism of one form or another to revere Gettysburg while reviling the market that has helped shape its meaning. ◻

Damon W. Root (d_w_r@hotmail.com) is a writer in New York City.

as the average Joe had more access to more songs than anyone in history. (That statement only gets more and more true every year, with every technological advance.) And nowadays—well, one Los Angeles session drummer told me his AFM rep blithely advised him to cross his own union's picket line to avoid inconveniencing himself.

As music journalist Mark Coleman notes in his new book *Playback: From the Victrola to MP3, 100 Years of Music, Machines, and Money* (Da Capo), "It's a pity [Petrillo] didn't live to hear the record industry unload on Napster and file sharing in much the same way he denounced canned music. The echoes are pitch-perfect." Coleman's book documents how new technologies—from the player piano to the iPod—have always rattled to their core the powers that dominate the business of making, distributing, and selling music.

Those powers are right to be disturbed. They tend to become entrenched in selling music in particular manners and styles and systems. New technologies inevitably shake all those things up. Coleman tells us about many such technologies and shakeups: home phonographs and radios that sealed the fate of player pianos and sheet music in the 1920s, '30s, and '40s; the invention of the long-playing record in the late '40s and multitracking in the '50s, which created space for unified 40-to-50-minute ››

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Talkin' 'Bout Regeneration

Politics, pop culture, and teen spirit

David Weigel

Dispatches From the Culture Wars: How the Left Lost Teen Spirit, by Danny Goldberg, New York: Miramax, 336 pages, $23.95

When the Democrats narrowly lost the House and Senate in 2002, party activists launched a blame game. Presidential candidate Howard Dean claimed the party had lost its liberal raison d'etre; some of his rivals scoffed and blamed the losses on their lack of national security strategies. Liberal congressmen and left-leaning journalists blamed big money, voter apathy, and a corporate media that never called Bush on his nefarious lies.

But for record executive Danny Goldberg, the problem was simpler: Democrats didn't know jack about hip-hop. In the opening pages of *Dispatches From the Culture Wars*, Goldberg relates with astonishment that in 2000, when the rapper was becoming the biggest star in music, Sen. Chuck Schumer (D-N.Y.), had never heard of Eminem. As shocking, "one of New York's most progressive congressmen" was unfamiliar with Russell Simmons, the wildly successful Def Jam mogul who recently spearheaded Musicians United to Win Without War. To Goldberg, such ignorance was a disgrace. "Political activists don't always respect or understand artists," he writes. "And the resulting failure to communicate has haunted progressive American politics since the sixties."

As "save the Democrats" messages go, Goldberg's thesis is more fun than a prescription drug plan. And it definitely comes from the gut. But in the end, *Dispatches From the Culture Wars* fundamentally misunderstands politics, pop culture, and the connections between them. By equating aesthetics with ideology, Goldberg makes a common but serious mistake: He thinks you can tell a person's politics from the music she listens to.

Dispatches From the Culture Wars is a memoir that see-saws into political theorizing. (Imagine *Witness* if Whitaker Chambers had palled around with Jackson Browne.) In the late 1960s, after dabbling in New York City politics and dropping out of Berkeley, Goldberg landed a job at *Billboard* picking prospective chart hits. He was already interested in progressive and anti-war politics, and new pop stars such as Bob Dylan and Janis Joplin fueled his passion. "The carefully detailed political position papers that radical groups labored over so strenuously," he writes, "paled in comparison to the visceral power of songs that made manifest shared political beliefs."

Goldberg credits pop music with influencing every part of '60s politics. Quoting Rep. John Lewis (D-Ga.), he claims that R&B music kickstarted the civil rights movement and that records such as "Give Peace a Chance" helped recruit kids to march against the Vietnam War. But by decade's end, Goldberg got his first look at "tone-deaf mavens"—left-wing politicians who thought pop culture should keep out of the serious stuff. It reminded him of the reaction when Dylan went electric and outraged folk fans: It "foreshadow[ed] schisms that would haunt the political left for decades to come."

The great schism took a while to happen. In 1976 the manager of the Allman Brothers raised money for Jimmy Carter, who quoted Bob Dylan on the campaign trail. Goldberg himself managed the star-studded No Nukes concert in 1979, which featured performances by Browne, Bruce Springsteen, and other rock luminaries. By his lights, the children of the '60s were forging ahead during the Me Decade. But then came 1980, and Ronald Reagan's entry into the White House. Suddenly, according to Goldberg, the right wing had learned how to use pop culture. "Media wizard Reagan [could] masquerade as an outsider," he writes, "even though his policies were aimed at protecting and reinforcing the wealth and power of the superrich."

For Goldberg, the divorce between Democrats and pop culture was finalized in 1985, when Tipper Gore and some other Senate wives formed the Parents Music Resource Center (PMRC). Goldberg, a lifelong Democrat, was dumbfounded. *Conservatives* were the ones who tried to ban music, not Woodstock-generation liberals. How could people like Al and Tipper Gore, who'd smoked pot in college and grooved to the Grateful Dead, turn on Prince and Frank Zappa? It seemed like cold calculation to Goldberg, who writes, "Tipper legitimized to many liberal baby boomers the snobbish, indeed arrogant, notion that their children were being exposed to music far less moral than the songs they'd grown up with."

The PMRC saga gets thorough treatment in *Dispatches From the Culture Wars* (albeit with Goldberg figuring more prominently than most of us remember). Since then Goldberg has viewed the Democrats as "running against the sixties" to win votes.

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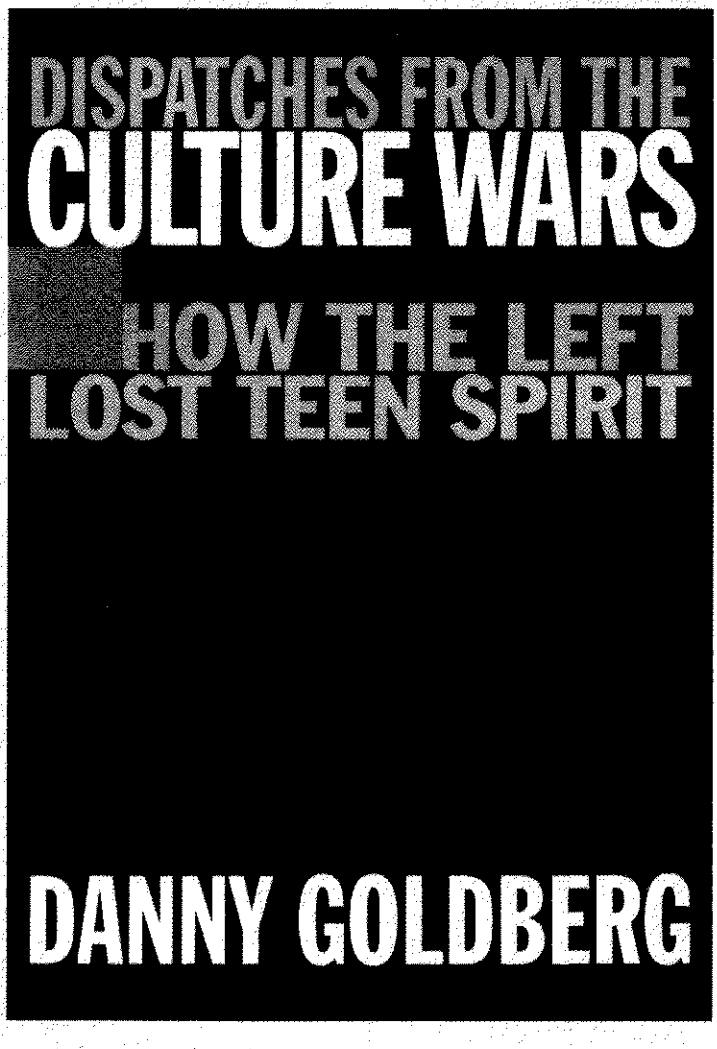
More important, he sees them losing. He uses the 1988 Dukakis campaign as a bellwether, ignoring the Democrats' takeover of the Senate in 1986. When a Democrat wins, Goldberg attributes it to pop culture savvy. In his telling, Bill Clinton won in 1992 by appearing on MTV and taking the youth vote by 12 percentage points. Al Gore lost because he allied with the schoolmarmish Joe Lieberman, then split the 18-to-24 vote with George W. Bush.

After dispensing with all of his party and power lunch anecdotes—and there are many—Goldberg offers two solutions to reverse the Dems' decline. First, embrace celebrities. During the 2000 presidential campaign and the 2002 midterm elections, he observes, Barbra Streisand lobbied the party to be more aggressive, but they didn't heed. In the end, he writes, "It was the 'professional' Democrats whose strategy for 2002 failed and the 'Hollywood' push for a clearer and more principled Democratic message that proved to have been right."

Goldberg's second solution is marketing. Democrats, he holds, are too intellectual and too boring. "How did we get these fucking zombies as our candidates?" he asks. Progressive activists can be even worse, he thinks, because they don't hone in on one critical issue and put all their muscle into getting it "on the cover of *Time* magazine." In an interview with me, Goldberg cited the Fox News crew, Ronald Reagan, the late campaign strategist Lee Atwater, and George W. Bush as examples of demagogues who did it right. "There's more sarcasm on the right and less sophistication about issues," he said. "It's attractive. Democrats have policies, sure, but they present them in such a boring way!"



Dispatches from the Culture Wars (cover)

Convinced of the righteousness and appeal of Democratic policies, Goldberg skips over whether those policies might be the problem. Instead, for him, it's all about effective advertising. He believes that a majority, especially a majority of young people, will rally around, say, abortion rights, affirmative action, and soak-the-rich taxes as long as they're slickly packaged via pop culture. Thus, Goldberg's Big Idea is a progressive *reconquista* of pop culture. Embrace

works of musical recording art; the late '70s introduction of portable cassette/earphone devices that elevated the cassette to the best-selling recorded-music format in just six years; the electronic synthesizer of the '80s that drove out of business many of Petrillo's boys who somehow had managed to survive the onslaught of canned music in the first half of the 20th century.

Now we face file sharing, and the music-selling industry is shaking and suing and wondering what to do. We don't know how this will all play out. Even where people can steal music conveniently, a new enterprise that sells the same songs we could steal can still move 25 million downloads in eight months, as iTunes has. Don't count out selling recordings over the internet yet.

As we listen these days to the cries of music-selling middlemen that those sweet songs of yesteryear will disappear in a world of unbridled file sharing, we need to remember that the interests of music professionals don't necessarily coincide with the interests of music listeners. Sure, new technologies and ways of doing business have hurt many trades related to the music industry. There are many fewer people making a living as song pluggers, sheet music publishers, and the like. There are probably fewer professional live musicians than there would be if we had never enjoyed radios, jukeboxes, transistorized stereos, or computerized file sharing. Yet with »

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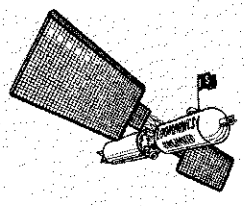

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Bill Clinton's "boxers or briefs" MTV interview, and be irreverent. Join forces with the hip-hop stars whom Al Sharpton is taking for granted. Paint the other side as the heirs of crusty 1950s DJs who wouldn't play "black" music.

It's a bold concept, but would it work? In April 2003, Pearl Jam fans booed frontman Eddie Vedder when he impaled a mask of George W. Bush on a microphone stand. Vedder took time between songs to say why he opposed Bush and the war on Iraq. He was booed again, and a clutch of fans walked out of the stadium. If you follow Goldberg's reasoning, this never could have happened. After all, left-wing politics had long been part of Pearl Jam's shtick: In 2000 Vedder and guitarist Stone Gossard even toured with Ralph Nader to back his presidential campaign.

Rolling Stone reporter David Fricke asked Vedder if he was surprised that he had Republican fans "considering that historically the music represents non-Republican values—sex, drugs and mutiny." Vedder laughed, saying, "That myth got knocked down for me when I learned that Johnny Ramone was a hard-core Republican."

Which is to say that however much politics and pop culture may have gone together in the past (and that's debatable), they've never been joined at the hip. Musical preferences have never been a particularly strong predictor of politics. Goldberg reveals as much. He mentions that the Beatles' greatest hits album, *One*, released in 2000, sold big after two presidential candidates "ran against the sixties." But he writes that "the continuing popularity of the Beatles...does not mean that everyone who bought

LumpenBlog

"The self-help tapes commence with my mellifluous voice simply repeating 'It's a quagmire. It's a quagmire. It's a quagmire.' I do this until you are almost asleep, then my wife gently begins reading the collected recent essays of Joe Klein."

- Barry Fest, The LumpenBlog!

Satire by Dan Roentsch and published by The Radical Capitalist.
www.lumpenblog.com

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the *One* album bought John Lennon's egalitarian political ideals or George Harrison's meditative spirituality."

That's the truth. It's a crapshoot whether or not a fan is going to buy into a band's politics. Not every fan of Rage Against the Machine or the Dead Kennedys is against globalization and free trade. Marilyn Manson—yes—guardedly endorsed George W. Bush during the 2000 election, telling the defunct *Talk* magazine, "If I had to pick, I'd pick Bush and not necessarily by default. I know I don't support what the other team is about." In the end, very few Dixie Chicks fans, judging by ticket and album sales, care all that much about the band's stance on presidential IQ or geopolitics.

Goldberg sees the Democrats as "running against the sixties" to win votes. More important, he sees them losing.

So why does Goldberg get it right in some chapters and fill other pages with wishful thinking? Most of his analysis comes from his personal experience, which is very much that of a left-wing New Yorker who lives in Greenwich Village and works with rock stars. He never explores the growing numbers of kids who listen to country or Christian contemporary music. Surprisingly, he doesn't dig into the annual UCLA polls of college students, which have shown more and more young people deserting the left since the early 1970s, the same time many adults did. Goldberg explains the 2000 youth vote split by saying that Bush-Cheney didn't advocate censorship and Gore-Lieberman did. It wasn't that simple.

Maybe Goldberg's equation of "teen spirit" with "pop culture" is at fault. He writes that "during most of American history, liberals and progressives understood how to communicate with average people through pop culture," which is arguably true. But are conservatives, and nonliberals generally, really dead set against popular culture? Nixon appeared on *Laugh-In* and inspired a James Brown song ("Funky President"). Reagan invited John Travolta and Michael Jackson to the White House. And it was Nancy Reagan, not Rosalyn Carter or Hillary Clinton, who famously once sat on Mr. T's lap during an anti-drug photo op. Libertarians and Barry Goldwater Republicans have always been against censorship. On the other hand, there were good liberals in the Catholic Legion of Decency—probably a lot of them.

It's simply impossible to assign people a political stripe based on whether they like pop culture, or what sort of pop culture they like. To bring it back to the Ramones—in discussions of pop culture, it *always* comes back to the Ramones—guitarist Johnny Ramone vehemently objected to the original title of the band's anti-Reagan song, "Bonzo Goes to Bitburg," forcing them to release it in the U.S. as "My Brain Is Hanging Upside Down." Said Johnny, "I thought Ronald Reagan was the best president of our lifetime."

Until Danny Goldberg can account for such statements, he'll add little to our understanding of politics or pop culture. Or to the Democrats' chances of pulling the youth vote in November 2004. ▮

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every change, people's access to better reproduced, more portable, more personalized music grows.

I come from the indie rock scene and ran my own label. Despite record-mogul fear mongering about the sounds of silence that will descend if they can't sell you $18 CDs, you can't tell me people won't still perform music—and even reproduce it in forms that people might be able to pirate—merely because they won't be able to make a healthy living at it.

There are no more AFM bosses like Petrillo, who in the '30s had enough clout to make all the radio stations in Chicago hire union musicians to flip records. But as the moribund music site MP3.com proved in its heyday, there are tens of thousands of people making their own music and yearning for an audience, though not necessarily a paying one. Music was a vital part of human culture long before anyone was able to mass reproduce and sell recordings of it. And music will survive any number of upheavals in the systems for selling recordings that developed in the last century.

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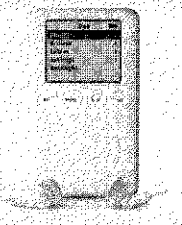

iPod, courtesy Apple

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McLuhan's War

TV and Tailgunner Joe

Nick Gillespie

Here we are, little more than a decade after the end of the Cold War, and it all seems like a distant, irrelevant dream, like the season of *Dallas* that turned out to be a figment of Bobby Ewing's imagination. Indeed, more people probably remember who shot J.R. than where they were when the Berlin Wall fell.

The speed with which the Cold War has dropped down the memory hole is all the more stunning given its once-central role in American life. Compared to World War II, the Cold War demanded few sacrifices from Americans, but it still permeated every aspect of everyday life, from duck-and-cover drills to ripped-shirt lamentations over the bullshit ending of the men's basketball final between the U.S. and the Soviets at the 1972 Olympics. Indeed, the Cold War haunted our culture so thoroughly that cosmonauts and Russian spies intruded with disturbing regularity even on the castaways of *Gilligan's Island*.

Though over, the Cold War shouldn't be forgotten, especially given the parallels with the current War on Terror. Soon after the 9/11 attacks, Secretary of Defense Donald Rumsfeld was quick to link the two, arguing that the War on Terror "undoubtedly will prove to be a lot more like a cold war than a hot war." The Cold War, he said, "took 50 years, plus or minus....It involved continuous pressure....It involved the willingness of populations in many countries to invest in it and to sustain it."

Those similarities make Thomas Doherty's excellent *Cold War, Cool Medium: Television, McCarthyism, and American Culture* (Columbia University Press) more timely that its title suggests. Doherty, the author of (among other books) *Pre-Code Hollywood: Sex, Immorality and Insurrection in American Cinema, 1930–1934*, has penned an engaging revisionist account of mass media and mass hysteria, forcefully arguing against critics who cast television in its early days as a co-conspirator in conducting ideological witch hunts and stifling dissent.

When it wasn't gutting journalistic and aesthetic standards to appeal to the lowest common denominator, goes that line of thinking, the boob tube was enforcing a repressive status quo in the dread gray years of Eisenhower's America. As the eminent historian Erik Barnouw put it, faced with the likes of Sen. Joseph McCarthy, television "would learn caution, and cowardice."

With characteristic nuance and insight, Doherty responds, "True enough—but it would also utter defiance and encourage resistance. The Cold War and the cool medium worked out an elastic arrangement, sometimes constricting but ultimately expanding the boundaries of free expression and relaxing the credentials for inclusion. Within a few short years, television had become the prized proscenium in American culture, and the stage was open to an array of unsettling opinions and unruly talent."

In dubbing television a "cool medium," Doherty is following Marshall McLuhan, who theorized in the early '60s that "TV is a medium that rejects the sharp personality" and that "the success of any TV performer depends on his achieving a low-pressure style of presentation."

In an entertainment context, the "unruly talent" unleashed by the small screen included people such as Lucille Ball and Desi Arnaz, who created the first great smash series, *I Love Lucy*. Doherty writes of *Lucy*, "In a decade misremembered as all whitebread homogeneity, male dominance, and stately decorum, the first breakout television show was brazenly multicultural, emphatically female-driven, and loopily anarchic: Lucy Ricardo (nee MacGillicuddy) and Ricky Ricardo, zany redhead and hot-blooded Latin, cornfed girl and exotic spice, wild woman and straight man."

Even a star as huge as Ball could not escape the politics of the period. In 1953 she was summoned by the House Committee on Un-American Activities (HUAC) to answer questions about having registered to vote as a Communist a decade earlier. The subsequent outpouring of fan affection helped persuade CBS, which broadcast *I Love Lucy*, to stand by its star until she was "cleared" by HUAC. It also gave husband Desi the opportunity to proclaim that his wife's hair was "the only thing red about Lucy—and even that is not legitimate." Lucy and Desi were lucky; lower-profile actors, writers, and directors never received such support from the networks, who were especially fearful of advertiser backlash.

However craven the networks could be, Doherty also documents the ways that television facilitated "forums of the air" that made room for debate and ultimately undercut demagogues such as Tailgunner Joe. Doherty's history of the early political uses of television is never less than fascinating, whether he's talking

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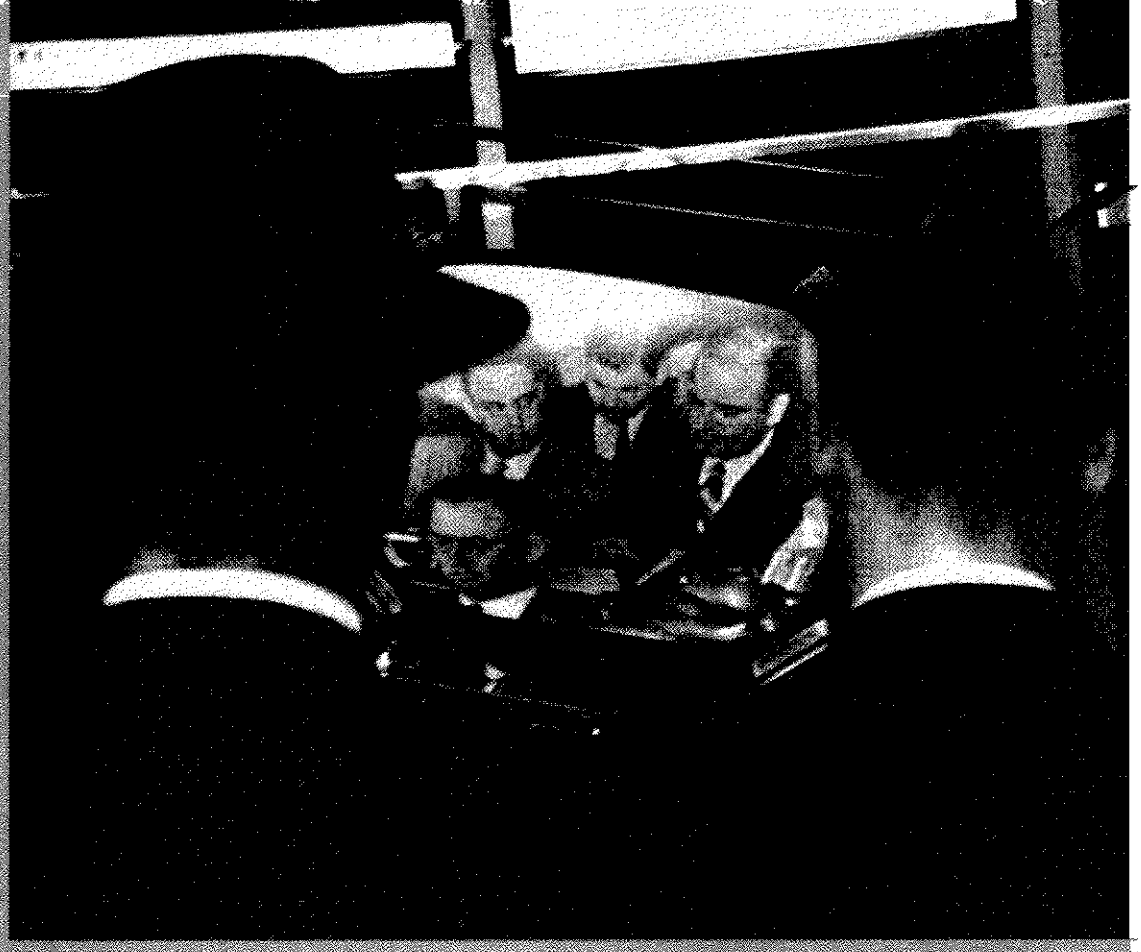

about Dwight Eisenhower's pioneering but largely overlooked use of the medium ("he orchestrated his television campaign with military precision"), the forgotten impact of Nixon's notorious "Checkers speech" ("by all contemporary reckoning a televisual master stroke"), or "Kefauver Fever" (the popular reaction to televised Senate hearings about organized crime).

In Doherty's telling, "egghead Sunday" talk shows ranging from the still-running *Meet the Press* and *Face the Nation* to the long-gone *At Issue* and *The Big Issue* created new, highly visible spaces that promoted dialogue and dissent. Even at McCarthy's zenith, journalists on such shows were quick to challenge and correct the senator and his allies. And of course, it was television that proved instrumental in bringing down McCarthy and the irresponsible, corrupted form of anti-communism he embodied. Doherty recounts the origins and impact of Edward R. Murrow's two legendary 1954 anti-McCarthy episodes of *See It Now*, thankfully steering clear of the overstatement and hagiography that usually attend such material. As important to McCarthy's demise, Doherty writes, were the senator's own blustering performances during an "equal time" rebuttal of Murrow, the 1953 Senate inquiry into Communist influence at the Voice of America, and the 1954 probe that became known as the "Army-McCarthy hearings," during which the senator, with the help of Roy Cohn and Robert F. Kennedy, traded accusations about influence peddling and Communist subversion with military brass. It was after the last of those hearings that McCarthy was censured by his colleagues and began his quick descent into oblivion.

Why did McCarthy come off so badly? Doherty argues that he was essentially a "hot personality" betrayed by the "cool medium" of TV. "A decade before Marshall McLuhan coined the terms," he writes, "the Army-McCarthy hearings showed how a hot personality melted under the glare of television."

Whether contemporary TV—especially the talk fests that now fill the cable news channels—is a cool medium is up for grabs. Certainly the bombast of cable's top yak show host, Bill O'Reilly, seems anything but cool. (As an occasional *O'Reilly Factor* guest who has had his mike cut off during blistering exchanges with the ayatollah of the no-spin zone, I say this lovingly, like an abused child.) Yet Doherty's larger point about television seems right on target in an age of proliferating TV channels and other news outlets. "Ultimately," he writes, "the insatiable demand for material—more thought, more talk, more tales, more personalities—would override the timidity of the medium in the presence of power" and lead to wider-ranging discussions from an increasing number of perspectives.

If he's right that "during the Cold War, through television, America became a more open and tolerant place," something similar is surely going on as we fight the War on Terror.

Nick Gillespie (gillespie@reason.com) is reason*'s editor-in-chief.*

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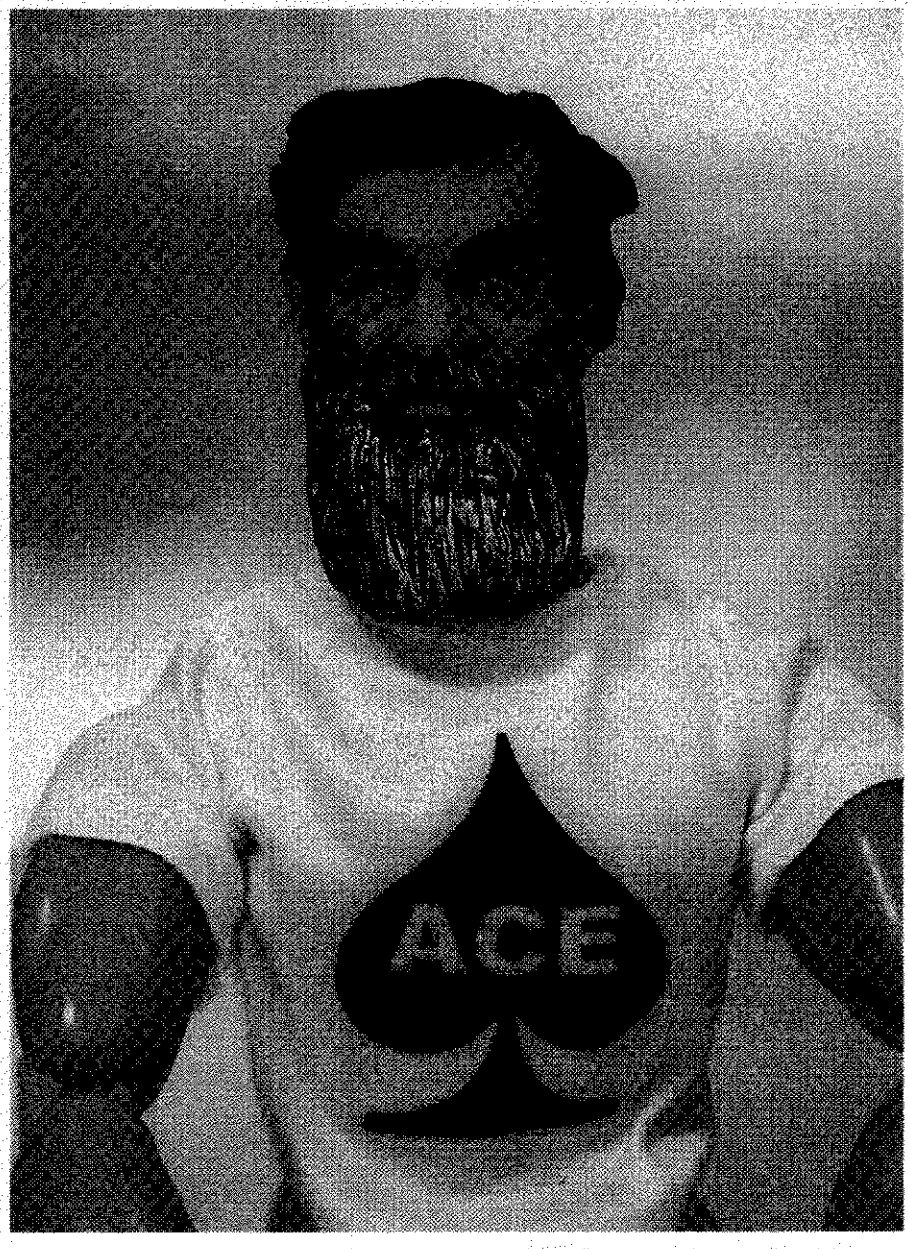
Quick Change

Charles Paul Freund



THIS 12-INCH doll of a bearded Saddam Hussein was being marketed by an outfit called Herobuilders.com within 24 hours of Saddam's emergence from his spider hole. While it wasn't the first capture-related "product"—that distinction probably goes to the eBay item "Saddam's Lice"—it does represent another stage in the rapid and ever more curious development of the action figure.

In just a few years, these toys have gone from representing types (like the original such figure, G.I. Joe) to resembling real-life celebrities (most recently, an Ann Coulter doll marketed to her fans and foes alike) to representations of specific images, as in this "Captured Saddam."

Meanwhile, action figures have also gone from being celebrations of their subjects to statements of contempt (such as a talking Bill Clinton doll that proclaims "I did not have sexual relations with that woman") or irony (a Jesus with "wheels in his base for smooth gliding action"). There may be more anti-action figures on the aggregate market than there are examples of the original toy: This is a world that expanded its universe of meaning with striking speed.

Owners of "Captured Saddam" can "embarrass" it with such accessories as a pink dress or an "S&M leather outfit." Or you might prefer the Uday talking doll that begs for its life. If none of this appeals to you, you can even shell out for a custom-made action figure of yourself. If you do, be careful with those accessories.

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Differences in American and European Worldviews

Russell A. Berman is a senior fellow at the Hoover Institution and the Walter A. Haas Professor in the Humanities at Stanford University.

Rather than viewing European anti-Americanism solely in terms of current policy disputes, we must look at our deep-seated cultural differences. According to *Views of a Changing World,* a study conducted by the Pew Global Attitudes Project, **Americans and West Europeans advocate very distinct philosophical stances, especially regarding matters of individual responsibility and the role of the state.**

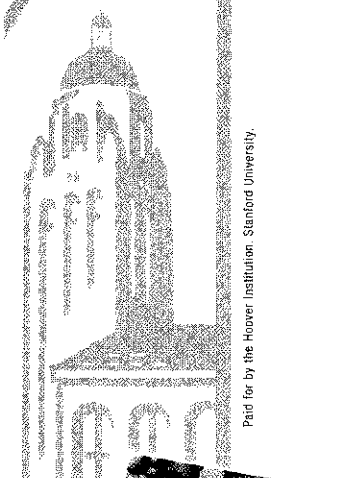
Asked to evaluate the statement "Success in life is pretty much determined by forces outside our control," 32 percent of the Americans polled agreed, in contrast to 48 percent in England, 54 percent in France, 66 percent in Italy, and 68 percent in Germany. Less than a third of Americans view their lives as defined by external forces, implying that the majority see the world in terms of individual responsibility. Meanwhile, Europeans minimize individual responsibility and attribute much greater importance to outside forces. Whereas Europeans tend toward a deterministic worldview, Americans focus on individual freedom.

The survey also measured how public opinion chooses between two competing values: the value of the freedom of individuals to pursue goals without state interference and the value of a state guarantee that no one be in need. Fifty-eight percent of Americans, a significant majority, chose freedom from state interference as the most important goal. This result stands in stark contrast to Europe, where freedom earns support at dramatically lower rates: only 39 percent in Germany, 36 percent in France, 33 percent in England, and a paltry 24 percent in Italy. Whereas Americans are predisposed to understand their lives in terms of individual responsibility and reject greater state regulation, Europeans, by and large, take the opposite position: They view their lives in terms of larger social forces and expect the state to protect them from need—even at the price of a restriction of their freedom. No wonder current domestic politics in most European countries involves the difficult task of reforming firmly entrenched welfare-state systems.

Not surprisingly, **the cultural difference between Americans and Europeans has significant foreign policy ramifications**. The American worldview of individual responsibility underpins an insistence on national sovereignty. In contrast, Europeans—especially the French and the Germans—tend to support restraints on the power of individual states. The lesson they take away from the two world wars is that curbs should be placed on individual states to prevent them from pursuing selfish interests. As a result, European states are gradually ceding elements of their sovereignty to the superstate of the European Union. In contrast, the United States has repeatedly demonstrated its reluctance to cede such authority to international bodies.

This is the cultural basis for the debate over multilateralism and unilateralism. In practice, the difference is, of course, hardly absolute. Although European politicians insist on international cooperation, they typically continue to pursue national interests. Whereas the American leadership insists on the right to act independently, it has appealed repeatedly to the United Nations for support. Nonetheless, the significant differences in American and European worldviews are likely to cause political rifts long after the current battles, such as Iraq and Kyoto, have faded.

—Russell A. Berman



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